

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

Paul Samuell, Referee

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD TELEGRAPHERS

THE CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

DISPUTE.—"Telegrapher E. T. Putnam claim payment for eight hours pay each day October 31 to November 9 inclusive, 1929, account being improperly displaced at Kittredge."

FINDINGS.—The Third Division of the Adjustment Board, upon the whole record and all the evidence finds that:

The carrier and the employee involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

The Third Division of the Adjustment Board has jurisdiction over dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

Said cause being deadlocked, Paul Samuell was called in as Referee to sit with this Division.

An agreement bearing effective date of December 1, 1927, governing wages and working conditions of employees therein designated is shown to exist between the parties to the dispute.

Three telegraph positions at Ashdale were abolished 12:01 P. M., October 25, 1929. The three employees holding the positions and their seniority dates were as follows:

J. M. Bowman, November 10, 1909.

L. A. Williams, July 18, 1916.

Ray Margileth, September 11, 1917.

The three youngest assigned employees in the district holding positions of the same class on October 25, 1929, were as follows:

H. W. Radcliffe, August 11, 1927.

R. B. Wright, March 16, 1926.

Z. G. Reiff, May 9, 1925.

Telegrapher Bowman did not exercise displacement rights but went on the extra list. Margileth took a leave of absence for a period of ninety days and did not exercise his right to displace a regular assigned employee. Telegrapher Williams was permitted to displace E. T. Putnam, October 31, 1929.

The payment claimed is based upon current Telegraphers' Schedule Rule 3 (n), reading, in part, as follows:

"(n) In event a position is abolished, the incumbent may displace the youngest regularly assigned employe in the district or the youngest regularly assigned employe holding a position of the same class, who, in turn, may displace the youngest regularly assigned employe in the district, provided seniority and ability are sufficient, and claim being made within ten days.

In case the youngest employe holding a position of the same class is also the youngest regularly assigned employe in the district, and the employe whose position was abolished is not qualified to displace him, he may displace the next youngest regularly assigned employe in the district, who, in turn, may displace the youngest regularly assigned employe in the district.

"The term 'class' in this rule will be defined as: Agents, Agent-Operators, Ticket Agents; All Operators except Agent-Operators; Non-Telegraph Tower and Levermen.

"In event of two or more positions being closed at the same time, the incumbents may displace a similar number of employes as above, preference being given to seniority."

That in accord with provisions of Rule 3 (n) Williams should have displaced the youngest regularly assigned employee holding a position of the same class, and it was agreed by Management that Putnam had been improperly displaced and he was accordingly returned to his regular position at Kittredge.

AWARD

Claim of the employee sustained.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON,
Secretary.

Dated at Chicago, Illinois, this 24th day of June 1935.