

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYEES
SOUTHERN PACIFIC COMPANY (PACIFIC LINES)**

DISPUTE.—

"Claim of Mr. Henry Moore, employe of the Tucson Division, Southern Pacific Company (Pacific Lines) that he should be permitted to displace Mr. A. W. Larson, a junior employe assigned to position of Ticket Clerk, Phoenix Union Passenger Station, Phoenix, Arizona, and that he should be compensated for actual wage loss."

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

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

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

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

Mr. Henry Moore is an employe of the carrier with seniority rights on the Tucson Division as of August 10, 1924.

The Union Passenger Station at Phoenix, Arizona, is operated under a joint agreement between the Southern Pacific Company (Pacific Lines) and the Atchison, Topeka and Santa Fe Railway, each carrier having supervision alternate years. Southern Pacific employes working in the station have their names carried also on Roster No. 5 of the Tucson Division.

On October 26, 1926, following conferences between representatives of the organization and carrier, instructions were issued setting forth method of handling seniority and other privileges for Phoenix Union Station Employes, as indicated by the following:

SAN FRANCISCO, October 26, 1926.

Mr. H. S. FAIRBANK: Concerning status of Phoenix Union Station employes—see your file 013-297.

When the operation of that facility is turned over to us January 1, 1927, as regards employes ordinarily coming under the working conditions of Clerks' Agreement, we will be governed by the following:

(a) Employes in service at Phoenix Union Station will be carried on a separate (Union Station) seniority roster. Their seniority dates thereon will be as of the date of their first regular employment therein.

(b) Former Arizona Eastern or former Southern Pacific (Tucson Division) employes in Phoenix Union Station service, will be permitted to retain their proper seniority dates on the Tucson Division station and yard seniority roster, their names being followed by a designation indicating that they are in Phoenix Union Station service.

(c) Employes hired at Phoenix Union Station during the period of Southern Pacific operation will be given seniority date on Tucson Division station and yard seniority roster coincident with that of the Union Station.

(d) When there is a new position or vacancy in the Union Station, it will be bulletined to the Union Station force, with copies to the Tucson Division. In filling such new position or vacancy employes on the Union Station seniority roster will be given first choice; if there be no acceptable bidder the position

will then be filled from among the applicants from the Tucson Division station and yard seniority roster on basis of seniority taken in conjunction with fitness and ability.

(e) Applications from Phoenix Union Station employes (carrying Southern Pacific seniority dates) will be considered for new positions or vacancies developing on the Tucson Division, but only as second choice, in the same way that Tucson Division employes are considered for positions in the Union Station.

(f) In event a position in the Phoenix Union Station is abolished, the employe, or employes, affected, in the exercise of their seniority privileges, will make displacements within the Union Station organization so long as possible, the last man affected having no opportunity of making a displacement in the Union Station organization being privileged to displace a Tucson Division employe from the station and yard roster on basis of seniority taken in conjunction with fitness and ability. On the other hand, Tucson Division employes will not be permitted to displace employes in Phoenix Union Station (with Southern Pacific seniority dates) so long as it is possible for them to make a displacement on the Tucson Division proper.

Please acknowledge receipt and understanding, advising if there are any of the conditions that are not fully understood.

(Signed) A. J. HANCOCK.

cc—to A. E. Sweet.

SAN FRANCISCO, November 2, 1926.

Mr. R. W. LANG,

General Chairman, Brotherhood of Railway & Steamship Clerks, Freight Handlers, Express & Station Employees, 736 Pacific Building, San Francisco, California.

DEAR SIR: To complete your files am attaching copy of my letter of October 26th to Superintendent Fairbank of the Tucson Division outlining method of handling seniority and other privileges for Phoenix Union Station Employes.

Yours truly,

(Signed) A. J. HANCOCK.

On September 4, 1933, Henry Moore acquired a displacement right; being unable to make a displacement on the Tucson Division he filed declaration of displacement on position of Ticket Clerk in the Union Passenger Station at Phoenix, then occupied by A. W. Larson, a Southern Pacific employe with seniority date of June 21, 1929.

The petitioner contends that, under the provisions of the understanding of October 26, 1926, paragraph (f) thereof, Henry Moore should have been permitted to displace Ticket Clerk A. W. Larson, his junior on Seniority Roster No. 5, Tucson Division.

The carrier cites certain provisions of the agreement of September 16, 1922, between the carriers operating the Union Passenger Station at Phoenix, as its reason for not permitting Henry Moore to displace Ticket Clerk A. W. Larson. The carrier raised no question as to the fitness and ability of Clerk Moore to perform the work of the position he sought.

The agreement between the carriers appears to conflict with the understanding between petitioner and the respondent carrier. However, the Division finds that as to the relations between the petitioner and respondent the understanding between those parties is controlling and based upon that understanding, as quoted above, clerk Henry Moore should have been permitted to displace Ticket Clerk A. W. Larson when he sought to do so, September 4, 1933.

AWARD

Claim sustained.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON, *Secretary.*

Dated at Chicago, Illinois, this 10th day of August 1936.