

Award No. 1506

Docket No. CL-1521

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Sidney St. F. Thaxter, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

CANADIAN NATIONAL RAILWAYS—CENTRAL REGION

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that the name of Mr. C. Lohman, who is now, and was employed in the Grand Trunk Western Traffic Office at Philadelphia, Pa., prior to Mediation agreement, effective October 1, 1938, should be deleted from the 1940 roster for Clerks, Freight Handlers and Station Employees at Black Rock and Buffalo, N. Y."

EMPLOYEES' STATEMENT OF FACTS: "Mr. C. Lohman entered the Service of the Canadian National Railways on October 1, 1920, and on January 16, 1937, accepted employment in the Traffic Office of the Grand Trunk Western Railroad at Buffalo, N. Y. The Grand Trunk Western Railroad is a subsidiary of the Canadian National Railways.

"There is in evidence a Mediation Agreement, effective October 1, 1938, and the rules thereof read:

'Article 3

'(a) There shall be one seniority group for all employees. The former seniority groups, namely (1) Clerical Forces and (2) All Others, shall be combined. The employees shall hold seniority rights to all positions, provided however that employees with seniority dates prior to January 1, 1933, shall be accorded preference rights to appointments to positions which were included in the former seniority and promotion group in which they first held seniority, such group to be indicated by a designating mark placed on the seniority list against the names of such employees.

'(b) A seniority list showing the names, positions and dates of last entry into the service in a position on the staffs covered by this schedule (due regard being had to Rules (l) and (n) of this article) from which date seniority will accumulate, shall be compiled and posted. A seniority list similarly compiled will likewise be posted in January of each year. The seniority list will be open for protest for a period of sixty (60) days from the date of posting and on presentation of proof of error by an employee or his representative such error shall be corrected.'"

CARRIER'S STATEMENT OF FACTS: "Effective January 16th, 1937, C. H. Lohman was promoted from the position of Correspondence Clerk in the Freight Office at Black Rock to the position of Assistant Rate Clerk in the Freight Traffic Department office at Buffalo, and effective March 1st,

"Under the United States Railroad Retirement Act this employe is not considered as a Canadian National Railway employe; he is shown as a Grand Trunk Western Railroad employe inasmuch as his salary is paid by the latter railroad. The Brotherhood has contractual relations with the Grand Trunk Western Railroad for its classes of employes on that railroad.

"The agreement of December 1, 1934, (under which Mr. Lohman was working prior to the time he accepted employment in the Grand Trunk Western Traffic Office) and the Mediation agreement of October 1, 1938, covers only the employes of the Company in the Freight Office, Freight Shed, Yard Office and Station at Black Rock and Buffalo, N. Y., and is in effect an agreement between the Brotherhood and the Canadian National Railways—Central Region. Therefore, the word 'railway' as used in Article 3 (c) of the Mediation Agreement, effective October 1, 1938, can only be interpreted to mean Canadian National Railways—Central Region. The Grand Trunk Western Railroad is a subsidiary of the Canadian National Railways.

"We would refer the Board to their awards 402, 876, and 835. The first two awards were in settlement of disputes which the Brotherhood had with the Grand Trunk Western Railroad, and the last award was in settlement of a dispute which the Brotherhood had with the Canadian National Railways. It will be seen, therefore, that these two railroads are operated as distinct and separate railroads, and that Mr. Lohman lost all seniority rights under the agreement for the employes at Black Rock and Buffalo when on January 16, 1937, he accepted employment in the Traffic Office of the Grand Trunk Western Traffic Office at Buffalo, N. Y.

"We therefore, ask that the Board in its award require the Carrier to delete the name of Mr. C. Lohman from the 1940 roster at Black Rock and Buffalo, N. Y., and not show the name of this former employe on future rosters."

POSITION OF CARRIER: "The Freight Traffic Offices at Buffalo and Philadelphia are Canadian National System Traffic offices soliciting traffic for the Canadian National Railways and its subsidiaries, the Grand Trunk Western and Central Vermont Railways, and these office staffs (of which Lohman is a member) are paid by Grand Trunk Western pay cheques as a matter of convenience only.

"The word 'Railway' as used in Article 3, Clause (c) of the agreement dated October 1st, 1934, has never been interpreted to mean 'Canadian National Railways—Central Region,' nor was it ever intended that it should be so interpreted.

"Therefore Lohman, who is employed at Philadelphia, is an employe of the Canadian National Railways and his name should be continued on the seniority roster for Clerks, Freight Handlers and Station Employes at Black Rock and Buffalo, and he should continue to accumulate seniority in accordance with Article 3, Clause (c) above quoted."

OPINION OF BOARD: The decision in this case is governed by the Opinion in Docket CL-1520, Award 1505, and in accordance with the view there expressed we must hold that the name of the employe was properly retained on the roster.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That there was no violation of the agreement in retaining the name of the employe on the roster.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 10th day of July, 1941.