

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Mortimer Stone, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYES

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the agreement by laying off from the Laurel, Mississippi Section, MB-10, on October 14, 1947, Trackmen Walter P. Wallace and Bill Cato, and retaining employees junior in the service to the claimants;

(2) The claimants be now reimbursed for all monetary loss suffered by them because of the Carrier's violation of the agreement.

EMPLOYEES' STATEMENT OF FACTS: Early in 1947, Trackmen Walter P. Wallace and Bill Cato were regular members of Section Crew MG-6, Saratoga, Louisiana Division. Around this time they were laid off in a force reduction. They did not exercise their displacement rights as they could have done if they so desired as provided for in Rule 6 (b).

On August 11, 1947, because of some special work at Laurel, Mississippi, Section MB-10, the claimants were called back to work in Section Crew MB-10. Upon completion of this special work at Laurel, the claimants were furloughed. At the time of this latter furlough, there were members of the Laurel Section who were junior to the claimants in accordance with the Track Laborer's roster dated September, 1947.

In June of 1947, the Carrier had a roster issued. The time limit for protesting the June roster expired on August 31, 1947. The Committee received some protests on the June roster, and the Carrier consequently issued a revised roster dated September, 1947. No protests were made against the June or September roster insofar as the seniority of the claimants was concerned.

Protests were made by the claimants stating that they should have been retained on the Laurel Section in accordance with their seniority. The Carrier has failed to recognize their right to work on Section MB-10 at Laurel.

The agreement between the parties to this dispute dated September 1, 1934, and its subsequent amendments and interpretations are by reference made a part of this Statement of Facts.

POSITION OF EMPLOYEES: As stated in our Statement of Facts, Trackmen Wallace and Cato, claimants in this dispute, held seniority on the Louisiana Division in the early part of 1947. They were members of Section Crew MG-6, Saratoga. They were laid off in a force reduction and did not exercise their displacement rights as provided for in Rule 6 (b). For ready reference we quote below Rule 6 (b):

later time, subsequent to the expiration of the fifteen day provision, displace junior employees.

Carrier further states the language of first sentence of Rule 6 (b) reading, "Seniority rights of laborers in the Track Department, as such, will be restricted to their gangs . . .," is also unambiguous, and such seniority can be predicated upon certain contingencies illustrated in sub-sections of Rule 6. Certainly, the provisional stipulation of fifteen (15) days specified in Rule 6 (g) is unequivocal in intent through the words "must be exercised within 15 days," and most assuredly does not mean four months later as Wallace and Cato attempted to do on October 14, 1947.

To sustain the position of Claimants in this particular case would be a violation of the controlling agreement.

(Exhibits not reproduced).

OPINION OF BOARD: Claimants, who were section laborers on Gang MG-6, were laid off in force reduction in June, 1947. Rule 6 (b) and (g) of the effective Agreement provided:

"(b) Seniority rights of laborers in the Track Department as such, will be restricted to their gangs, except when forces are reduced, laborers affected will have the right to displace junior laborers in service on the Supervisor's district on which employed."

"(g) Seniority rights in displacing other employees must be exercised within 15 days after employees are laid off or displaced."

Claimants were the lowest in seniority rank on their gang but there were two laborers on Gang MB-10 of lower seniority, whom they could have displaced had they not accepted furlough instead. On August 11, 1947, they were returned to service and assigned to temporary work on Gang MB-10. After two months' work on that gang, in October they were again laid off in force reduction while the two members of later seniority were retained. Claimants asserted right to displace them and this claim resulted.

Claimants did not lose their seniority rights on their Gang MG-6 upon being furloughed nor upon being assigned to work on Gang MB-10, but they acquired seniority rights on Gang MB-10. Had they been reassigned to their own gang, then on subsequent force reduction, we think their right of displacement on other gangs in the district would have revived. In the situation here presented, however, strictly speaking, no displacement was involved. Claimants were already members of the gang where they worked but without seniority rights thereon, and they contended that others with seniority on that group be laid off instead of them. What Claimants sought was not displacement of others from their positions; rather it was retention of their own positions.

Moreover, Rule 6 (f) reads:

"Laborers displacing other laborers will have the right when forces are increased to return to their former positions."

"Their former positions" must mean their positions prior to their displacing others, and if we consider their here asserted right to retain their positions on Gang MB-10 as "displacement", then "their former position" was on the same gang and they could not "return" to where they already were. From our study we think that the claim "when forces are reduced" in Rule 6 (b) refers only to reduction of force on a laborer's own gang on which he is employed and holds seniority, and the Carrier did not violate the Agreement in laying off Claimants here.

Such being our conclusion, it is unnecessary for us to consider whether Claimants lost their seniority and all rights thereunder by failure to file their names and addresses with their employing officer as required by Rule 15.

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 Employees involved in this dispute are respectively Carrier and Employees 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 the Agreement was not violated.

AWARD

Claims (1) and (2) denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois this 21st day of March, 1950.