



Award Number 17382

Docket Number MW-16574

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

G. Dan Rambo, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF MAINTENANCE OF WAY
EMPLOYEES**

ELGIN, JOLIET AND EASTERN RAILWAY COMPANY

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

- (1) Mr. D. Taber's name was improperly deleted from the Gary Division Painter Foreman's and Carpenter's seniority roster of the B&B Sub-department when said rosters were reissued effective June 1, 1965. (System Case No. BG-1-65/TM-1-65).
- (2) Mr. D. Taber's seniority as a Painter Foreman (7/19/63) and as a Carpenter (10/7/63) be restored and so shown on the appropriate seniority rosters.

EMPLOYEES' STATEMENT OF FACTS: Claimant D. Taber has established seniority within the Bridge and Building Sub-department as a Painter Foreman (Group 3(a)) as of July 19, 1963; as a Painter (Group 3(c)) as of July 21, 1961; as a Carpenter (Group 1(d)) as of October 7, 1962. Due to reductions in force, Claimant Taber was unable to work as a Painter Foreman and, through exercise of his seniority, was working as a Carpenter when, on March 2, 1965, he bid for and was assigned to a position of Crane Operator (Group 6).

In revising the seniority rosters for 1965, the Carrier removed the claimant's name from the painter foreman and carpenter's seniority rosters. The only reason given therefor was that the claimant had allegedly lost his seniority as a painter foreman and carpenter when he bid for and was assigned to the position of crane operator. His seniority as a painter was not disturbed!

Claim was timely and properly presented and handled by the Employees at all stages of appeal up to and including the Carrier's highest appellate officer.

The Agreement in effect between the two parties to this dispute dated August 1, 1952, together with supplements, amendments and interpretations thereto is by reference made a part of this Statement of Facts.

CARRIER'S STATEMENT OF FACTS: Daro D. Taber was employed by the Carrier on July 21, 1961 and commenced working as a B&B Sub-department Painter on the Carrier's Gary Division. On July 19, 1963, he was awarded a Painter Foreman's position and qualified for seniority purposes

GUTIERREZ, MAURO

Awarded Roadway Machine Operator Position (2998-A)	5-23-62
Awarded Track Foreman Positions (3234-A)	8- 8-63
Displaced and returned as machine operator	8-23-63
Forfeited Track Foreman and Asst. Foreman's seniority by failure to bid on Bull 3289 though different groups were involved.	12- 9-63

From the foregoing, we think it is evident our application of the exhaustion of seniority principle has been and is very consistent. All these examples were specifically pointed out to the Organization in final conference on January 10, 1966.

What the Organization's present General Chairman fails to reveal is that after August 1, 1952 Agreement was adopted and after he succeeded former General Chairman in the latter part of 1952, he undertook a personal campaign, which he is still pushing, to limit the penalties imposed by current Rules 12(g), 12(i) and 13(f).

(Exhibits Not Reproduced)

OPINION OF BOARD: Claimant successfully bid for and was assigned the post of Bridge and Building Sub-Department Crane Operator on March 2, 1965. Carrier issued a seniority roster June 1, 1965 deleting Claimant's name from Paint Foreman's seniority roster and Carpenter's seniority roster. This claim seeks restoration of seniority on those rosters.

It is revealed by the record that Claimant voluntarily terminated service with Carrier on May 13, 1966 and entered private business and that notice by the Organization of intent to file this matter was not issued until October 4, 1966. The issue involved in the claim is therefore moot.

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

That the parties waived oral hearing;

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; an

Claim is moot.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 1st day of August 1969.

Central Publishing Co., Indianapolis, Ind. 46206

Printed in U.S.A.