Award Number 257
Docket Number CL-318

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

PARTIES TO DISPUTE:

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

CHICAGO, BURLINGTON AND QUINCY RAILROAD COMPANY

DISPUTE.—

"Protest on seniority dating E. L. Little, Yard Clerk, Quincy, Illinois, as being shown as of July 13, 1921."

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.

The petitioner states that on May 16, 1930, Mr. Griggs, Superintendent, agreed with the Brotherhood on the former protest of Mr. Little's seniority date and that August 12, 1925, was the correct date agreed upon. On September 7, 1934, Mr. Griggs, Superintendent, advised that Mr. Little's seniority as of July 13, 1921, had been restored, and that he (Little) was told he could exercise his seniority on that basis. The 1935 seniority roster was then changed by the management to show Mr. Little's seniority date as of July 13, 1921.

The Carrier states that Mr. E. L. Little's original seniority date as Yard Clerk was July 13, 1921; that on August 6, 1925, he was temporarily transferred to the Roundhouse Clerk's position at Quincy to try out thereon, and that he transferred back to the position of Yard Clerk at Quincy on August 12, 1925, retaining his original seniority date of July 13, 1921; that on May 16, 1930, through an understanding between a representative of the Brotherhood of Railway Clerks and a Clerk in the office of Division Superintendent at Galesburg, Mr. Little's seniority date as Yard Clerk was changed from April 13, 1921, to August 12, 1925, without Little having been given an opportunity to be heard; that on September 19, 1934, the General Superintendent, after a personal investigation of the case, advised the General Chairman that Mr. Little's original seniority date of July 13, 1921, had been restored to him.

There is in evidence an agreement between the parties bearing effective date of February 1, 1928, and Rule 20 thereof has been cited, reading:

RULE 20

"*Transferring.*—Employes transferring with their positions from one seniority district or roster to another, shall retain their positions and seniority.

"Employes transferring from one seniority district or roster to another, shall rank from date of transfer on seniority district or roster to which transferred.

"Employes not desiring to transfer with their positions shall be governed by Rule 22."

The petitioner also cites Superintendent Griggs' letter of May 16, 1930, which it is contended is an agreement between the carrier and the petitioner, settling

the question of the correct seniority date of Mr. Little as being, August 12, 1925, reading:

> "Replying to your letter of April 28th, relative to seniority standing of Mr. E. L. Little, clerk at Quincy.
>
> "I have checked up and find that this man did work as roundhouse clerk at Quincy from August 6 to 11th, 1925, inclusive. After holding the job for a few days, and as no one had been on his former job at the yard office under yard master, J. E. Stewart, he was given back his old position. I am agreeable to correcting the seniority list to show Mr. Little's seniority dating from August 12, 1925, at which time he resumed his former job in the yard department at Quincy."

The petitioner contends that prior to August 6, 1925, Mr. Little was working as Yard Clerk, under the jurisdiction of the Superintendent, and that on that date he transferred to the position of Roundhouse Clerk, under the jurisdiction of the Master Mechanic, working thereon from August 6 to August 11, inclusive, and that he then resumed the position of Yard Clerk at Quincy on August 12, and that the question as to the correct seniority date of Mr. Little was settled by Division Superintendent G. L. Griggs' letter of May 16, 1930.

Petitioner further contends that during the years 1931, 1932, 1933, and 1934 Little's seniority was shown on the seniority rosters with a date of August 12, 1925; that it was arbitrarily changed by the carrier to July 13, 1921, upon the revision and posting of the 1935 roster.

The carrier contends that Mr. Little's service record in the Employment Department is:

July 13, 1921, Clerk, Quincy, Ill.

April 20, 1925, Granted thirty days leave of absence to make trip to California.

August 6, 1925, Transferred from position Yard Clerk at Quincy to clerk Roundhouse at own request temporarily to try out position, August 6th to 11th, 1925. Transferred back to Yard Department at own request.

That in 1930, a representative of the petitioner questioned a Clerk in the Superintendent's office regarding date of Little's seniority, and without an investigation of any kind and without the knowledge of the Superintendent or Little himself, Little's seniority date was changed from July 13, 1921, to August 12, 1925, and on or about August 9, 1930, Little was displaced as Yard Clerk by a Clerk with seniority rights from prior to August 12, 1925; that Mr. Little immediately made a protest in accordance with the schedule rules, but was advised that his case had been closed and that he should have entered his protest at the time his seniority date was changed, notwithstanding the fact that he was not advised that any change was contemplated, or given any opportunity to be heard; that on the 1931 seniority roster, Little's seniority date was shown as of August 12, 1925, instead of July 13, 1921; that on September 19, 1934, the General Superintendent, after a personal investigation of the case, advised General Chairman Doohan that Mr. Little's original seniority date of July 13, 1921, had been restored to him.

The carrier further contends that Mr. Little was granted a properly authorized leave of absence in August 1925 to try out on the position in the Roundhouse, and that the bulletining of his position as Yard Clerk during his leave of absence was improper; that Little was returned to the position of Yard Clerk with his original seniority date of July 13, 1921, and carried that date on the 1926, 1927, 1928, 1929, and 1930 seniority rosters; that he was wrongfully deprived of his scheduled rights to be heard when his seniority date of July 13, 1921, was questioned in 1930; that the representative of the Clerks' organization and the Clerk representing the carrier were not authorized to pass upon the seniority of Mr. Little; that the action taken by the General Superintendent in 1934 in restoring to Little his original seniority date of July 13, 1921, was proper and fair and was in strict accord with the schedule rules and agreements, and fully justified by the circumstances.

The Third Division finds that E. L. Little did not transfer from the seniority district of the Division Superintendent to the seniority district of the Master Mechanic while he was on leave of absence from the position of Yard Clerk at Quincy in August 1925, and that he, therefore, did not lose his seniority rights in the Superintendent's district. This Division, however, is of the opinion that understandings had between Division Superintendents and accredited representatives of the employes as to seniority datings of employes

in a Superintendent's district, as was had in this instance, should not be disregarded and seniority dates later arbitrarily changed by either party, or their superiors, without first being again handled in conference between the parties; but in view of all the circumstances in this particular dispute, protest should be denied.

AWARD

Protest denied.
By Order of Third Division.

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON, *Secretary.*

Dated at Chicago, Illinois, this 8th day of May 1936.