

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

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

TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS

STATEMENT OF CLAIM: "Claim of the Terminal Board of Adjustment, Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees that—

1. E. French, W. Rutledge and A. Heitman are entitled to seniority dates on the Station Master's Seniority Roster as gatemen as of the date each of them first performed and were paid for services as gatemen;

2. July 1, 1937 roster shall be corrected to properly record such seniority dates; and

3. Said employes shall be reimbursed for wage losses sustained as result of carrier failing and refusing to assign said employes to positions and vacancies in accordance with seniority rules of the agreement, retroactive to June 13, 1937."

STATEMENT OF FACTS: The employes stated the facts as follows:

"Messrs. French, Rutledge and Heitman have been employed as 'Red-caps' or ushers at Union Station for a period of years.

"It has been customary in the past whenever extra gatemen were needed for any reason for the Station-master, under whose jurisdiction both red-caps and gatemen are, to assign one or more red-caps to act as gatemen, and during such time as they are assigned as gatemen, they receive gatemen's rate of pay.

"Since January 1, 1937, the three above mentioned employes have been assigned as gatemen for the following number of days in each month below listed.

	Jan.	Feb.	Mar.	Apr.	May	June	July
E. French	10	18	13	4	5	19	22
W. Rutledge	..	5	3	.	8	3	3
A. Heitman	..	1	1	.	4	10	17

"The first date on which these men were assigned to work as gatemen is as follows:

French	January	1, 1937
Rutledge	February	10, 1937
Heitman	February	27, 1937

"All data submitted in support of carrier's position has been presented to the duly authorized representative of the employees and made a part of the particular question in dispute.

"We desire to be present at the oral hearing."

OPINION OF BOARD: Gatemen are covered by agreement between the parties. Red Caps are not covered by agreement between the parties or carried on any seniority roster. While it is true that the individuals involved have not been assigned on bulletined positions subject to the provisions of Rule 12, as carrier contends is necessary before they should be given seniority rights as gatemen, and as the rules have heretofore been applied, the evidence is clear that these Red Caps have been used with regularity as Gatemen on extra work when furloughed Gatemen were not available.

In view of all the facts and circumstances involved in this particular case, the Board feels that equity will be done to all interests involved by ruling that the interpretation here made be not retroactive prior to the date of this award for any individual, except that the seniority dates of the three individuals as Gatemen be established as of dates shown in the award with the privilege of now exercising the seniority rights thus established, subject to fitness and ability, over any employe with seniority dating of June 13, 1937, or thereafter; and claim for compensation be disallowed.

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 employes involved in this dispute are respectively carrier and employes 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 seniority dates as Gatemen for the three individuals named be established on the January 1938 Gatemen's seniority roster, as indicated in award, together with displacement rights to extent indicated in opinion; and claim for compensation is disallowed.

AWARD

The following seniority dates shall be accorded the individuals listed herein on the Gatemen's seniority roster:

E. French	January 1, 1937
W. Rutledge	February 10, 1937
A. Heitman	February 27, 1937

and they shall now be permitted to exercise these rights on positions occupied by Gatemen with seniority dating of June 13, 1937, or thereafter.

Claim for compensation denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 18th day of January, 1938.