

Award No. 1245
Docket No. CL-1277

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Harris L. Danner, Referee

PARTIES TO DISPUTE:

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

**CHICAGO, ST. PAUL, MINNEAPOLIS AND OMAHA
RAILWAY COMPANY**

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

"(1) The Carrier violated agreement rules when it failed and refused to eliminate the names of Geo. A. Williamson, Leonard F. Fischer and Charles L. Coss, Freight Brakemen, from the Altoona Store Department Group 3 Roster for year 1940, and

"(2) The Carrier shall be required to reimburse employes affected for wage losses sustained as a result of said rules violation.

EMPLOYES' STATEMENT OF FACTS: "The Altoona Store Seniority Roster for Class 3—Laborers issued January 30th, 1940 for year 1940, lists eight employes, the names of the three being protested are listed as:

"3. Williamson, Geo. A.	April 15th, 1932
"5. Fischer, Leonard F.	May 15th, 1936
"7. Coss, Charles L.	August 3d, 1937

"These three employes are also listed on the Unassigned Freight Brakemen—Eastern Division Roster of January 1st, 1940, as:

"31. Fischer, Leonard F.	July 30th, 1937
"41. Coss, Charles L.	Sept. 3d, 1937
"46. Williamson, Geo. A.	Dec. 7th, 1937

"These three employes are subject to call as Freight Brakemen when service requirements necessitate their services and when released from freight service they return and displace Store Laborers at Altoona, working as Store Laborers until again required in Freight service.

"This has been the practice for at least three years as it will be noted that Fischer carries a Brakemen's seniority date of July 30th, 1937.

"Claim has been duly filed and appealed to the highest designated officer as set forth above in Statement of Claim.

"Rules 3-4-5-6-15-16-17 and 34 of current agreement dated and effective July 16th, 1926, and Memorandum Agreement dated December 20th, 1938; effective December 31st, 1937; modifying third paragraph of Rule 15 for employes at St. Paul, Minneapolis, Sioux City and Duluth Stations, read as follows:

There is in evidence an agreement between the parties bearing effective date of July 16, 1926.

OPINION OF BOARD: The submissions clearly set forth the facts and contentions of the parties.

The only essential difference between this case and CL-1276, Award 1244, this date decided, is that in the instant case the names of employes Williamson, Fischer, and Coss all appeared on the Altoona Store Seniority Roster for Class 3—Laborers prior to the time that their names were listed on the Unassigned Freight Brakemen—Eastern Division Roster.

The interpretation and reasoning in CL-1276, Award 1244 apply to this case and the holding will be the same.

In line with the principles enunciated in Award 1244 we hold that George A. Williamson, Leonard F. Fischer, and Charles L. Coss cannot hold seniority rights on the Altoona Store Seniority Roster for Class 3—Laborers and at the same time hold seniority on the Unassigned Freight Brakemen—Eastern Division Roster, and that each of said parties is required to elect on which roster he will remain; and that carrier violated the current agreement by allowing the names of Williamson, Fischer, and Coss to appear on two different rosters at the same time to the detriment of other employes.

We also hold that the carrier shall reimburse employes on the Altoona Store Seniority Roster for Class 3—Laborers for wage losses occasioned by reason of said Williamson, Fischer, and Coss being allowed to remain on the Altoona Store Seniority Roster from the period of August 24, 1939 and that such reparation shall be retroactive to August 24, 1939.

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 any employe whose name appears on the Altoona Seniority Roster for Class 3—Laborers shall be reimbursed for wage losses suffered as result of above violation and that such reparations shall be retroactive to August 24, 1939; that Williamson, Fischer, and Coss and each of them be required to elect upon which roster he will remain and that if he refuses to elect within 10 days after receipt of notice of the promulgation of this award the matter shall be again submitted to this Board for the determination of this particular question.

AWARD

Claims sustained in accordance with Findings and Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 2nd day of December, 1940.