

Award No. 11255

Docket No. CL-11137

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Wesley Miller, Referee

PARTIES TO DISPUTE:

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

ILLINOIS CENTRAL RAILROAD COMPANY

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

(a) Carrier violated rules of the Clerks' Agreement at the South Water Street Freight Agency, Chicago, Illinois, when on March 17, 1958 it placed the name of one G. F. Richardson on the South Water Street Freight House Consolidated Seniority Roster with a seniority date of February 19, 1936.

(b) G. F. Richardson's name be deleted from the South Water Street Freight House Consolidated Roster.

EMPLOYEES' STATEMENT OF FACTS: There are employed at the South Water Street Freight Station, Chicago, Illinois, a force of employees who perform the work incidental to the receipt and forwarding of Carrier's less carload business coming within the Scope Rule of its Agreement with the Employees effective June 23, 1922.

G. F. Richardson was employed February 19, 1936 as a laborer in the Inbound Freight House at the South Water Street Freight Station, Chicago, Illinois. Under the then prevailing terms of the Clerks' Agreement he established seniority on the first day worked and his name appeared on the succeeding issue of the "Inbound House" seniority roster January 1, 1937 as rank No. 177 and seniority date February 19, 1936. Thereafter his name and correct seniority date appeared on the seniority rosters issued January 1 of each year 1938 through 1949, including 1943, 1944, 1945 and 1946 during which period he was absent from the Carrier's service due to his having been granted a military leave of absence.

For reasons known only by the Carrier, the January 1, 1950 issue of the controlling seniority roster omitted any reference to Richardson and the Employees assumed his name had been removed therefrom for good and sufficient cause.

Thereafter, Richardson's name was omitted from the rosters issued January 1, 1951, 1952, 1953 and 1954.

to the agreement which was clearly not the intention of the parties. (See Award 6365.) Rule 21 is crystal clear and unambiguous. The fact that Mr. Richardson's name was inadvertently omitted from the roster in 1950 does not change the rule. In Award 5351, this Board stated:

" . . . We think the roster created no more than a rebuttable presumption which must yield to the rule of when facts appear presumptions disappear. In the instant case the facts contradict the statement in the roster. Seniority is a valuable right and one which may not be subjected to the vagaries and caprice of a scrivener."

The Employees' statement in part (a) of their claim is not supported by the rules of the agreement, and consequently, no basis exists for their request in part (b) to remove G. F. Richardson's name from the South Water Street Freight House Consolidated Roster. The Board should deny the claim.

All data in this submission have been presented to the Employees and made a part of the question in dispute.

OPINION OF BOARD: In resolving the issues herein, we quote with approval that part of First Division Award 19399 which holds:

"Seniority rights are valuable rights and cannot be taken away unless the schedules rules and the evidence warrant such action beyond question . . ." (Emphasis ours.)

In the case at hand, we have carefully studied the Record and the Agreement of the Parties; and we find no justification for abolishing—or diminishing—the seniority rights of Mr. Richardson.

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; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of March 1963.