

Award No. 12026

Docket No. SG-11415

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Kieran P. O'Gallagher, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD SIGNALMEN

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the General Committee of the Brotherhood of Railroad Signalmen on the Pennsylvania Railroad Company that:

(a) G. C. Campbell should have been permitted to displace D. A. Seedor as Assistant Signalman at Kase on March 5, 1958, because G. C. Campbell is the senior man.

(b) The position of 75-2, account Bulletin 75, dated April 15, 1958, awarded to D. A. Seedor, should have been awarded to D. C. Yoxtheimer, who is the senior man.

[System Docket No. 79, Northern Region, Susquehanna District NS-9]

EMPLOYES' STATEMENT OF FACTS: Under date of April 15, 1958, the Carrier issued Bulletin No. 75, advertising positions for seniority choice. Bulletin No. 75 is attached hereto and identified as Brotherhood's Exhibit No. 1.

On Bulletin No. 79, dated April 28, 1958, the Carrier made assignments to positions advertised in Bulletin No. 75. Bulletin No. 79 is attached hereto and identified as Brotherhood's Exhibit No. 2.

On May 14, 1958, Mr. M. E. Skiles, Local Chairman, presented the following claim to Mr. J. I. Adams, Supervisor Communications and Signals:

"The undersigned presents the following claim in behalf of the employees involved:

(A) Claim that G. C. Campbell should have been permitted to displace D. A. Seedor as Ass't. Signalman at Kase on March 5, 1958, because G. C. Campbell is the senior man.

(B) Claim that the position of Signalman 75-2 Acc't. Bulletin 75 dated April 15, 1958. Awarded to D. A. Seedor should have been awarded to D. C. Yoxtheimer who is the senior man."

The Carrier also has shown that there is no merit to the claim inasmuch as the seniority possessed by D. A. Seedor under the Signalmen's Agreement is correct and was established properly in accordance with the provisions of said Agreement and the re-employment rights statutes applicable to ex-servicemen. Therefore, no valid basis exists for sustaining any part of the claim which is presented solely on the allegation that the seniority in question is incorrect.

The Carrier demands strict proof by competent evidence of all facts relied upon by the Employees, with the right to test the same by cross-examination, the right to produce competent evidence in its own behalf at a proper trial of this matter and the establishment of a proper record of all of the same.

All data contained herein have been presented to the employees involved or to their duly authorized representative.

(Exhibits not reproduced.)

OPINION OF BOARD: The issue in the instant claim, stated simply, is the seniority standing of D. A. Seedor as assistant signalman at Kase on March 5, 1958.

The record reveals Mr. Seedor entered the service of the Carrier as a Trackman in the Maintenance of Way Department, September 28, 1953; that on October 20, 1953 he was furloughed account of force reduction; that he was recalled to duty as Trackman on November 23, 1953. The record further shows that while working as a Trackman he applied for and was given employment as Helper, T. & S. Department, on December 7, 1953. On the same day, the Claimant herein, Mr. G. C. Campbell was also employed as a Helper in the T. & S. Department, but because of Mr. Seedor's prior service as a Trackman, the latter was assigned a position on the Seniority Roster immediately ahead of Mr. Campbell. The record further shows Mr. Seedor was furloughed from his position as Helper, T. & S. Department, on December 31, 1953, account of force reduction, and between that date and January 4, 1954, he advised the T. & S. Department that he was about to enter the Military Service, which he did on January 13, 1954. The record also shows that the Carrier showed Mr. Seedor as being furloughed to the Maintenance of Way Department, as of December 31, 1953. It is the contention of the Carrier that this entry in the record of Mr. Seedor showing him as being furloughed to the Maintenance of Way Department was a clerical error; that Mr. Seedor, subsequent to his furlough by the T. & S. Department and before his entry into Military Service performed no service as Trackman; that upon his return from Military Service on January 24, 1957 he resumed his service as Helper, C. & S., which was in conformity with the requirements of the G. I. Bill of Rights.

From the facts, as they are revealed in the record, it would appear that Mr. Seedor's service in the T. & S. Department commences on December 7, 1953, and is continuous to the date of the claim. Furthermore, the Board finds that Mr. Seedor is senior to Mr. Campbell, and for the above reasons, this Board must deny the claim.

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 19th day of December 1963.