Kansas City, Missouri.  
August 20, 1925.

Decision #247-District #14.

Mr. Matt Walters, Pres.,  
Dist. #14, U. M. W. of A.,  
Pittsburg, Kansas.

Mr. Bernard Harrigan, Commr.,  
Dist. #14, S. I. C. O. Assn.,  
Pittsburg, Kansas.

Gentlemen:

In Kansas Joint Board Case #1567, Gusto Rizzio, miner, demands 2 days compensation and claims that the company transferred John Biama, after his (Biama's) place was finished to mining coal by the day ahead of him (Rizzio) when he (Rizzio) was first on the waiting list for employment as a miner.

An examination of the Joint Statement and evidence by the commission shows the following facts: John Biama was injured in his room on May 25, 1925. On July 6th he reported for work and started in the same room on the morning of July 9th. When he went to his room he found the room was caved in and notified the mine foreman. The foreman told him to gather his tools up, as they did not want to work that place any longer. This put Biama on the waiting list of old employees.

On July 13th the company decided to start up an old room on the west side for the purpose of making an air connection. The foreman selected the said John Biama and started him to do this work by day work, on account of the fact that there was a considerable amount of timbering to be done that necessitated skill and understanding in connecting up an air course in the proper way. It therefore followed that this man was selected from the waiting list and was not transferred from his room, which had fallen in, as he did not start in this place until 5 days after his room was stopped.

The Commission holds that the company was within their rights in the selection of Biama to do this work, because of his skill and understanding, not because he did the work day work or worked as a day man.

It has long been established that entry men and air course men, doing special work requiring skill and fitness may be selected from old employees waiting list, and that such is not a violation of the contract. The miners quote Section 12, Article 16, in an abbreviated form to fit this case. A full reading of the Section shows that it does not apply to this case at all as there has not arisen any dispute over a room that was deficient or faulty.
It is further shown that Rizzio being first on the old employees list was not discriminated against, as he was put to work in a regular room, in which he was competent to work, within 2 days after Biama had been placed in the air course connection.

In view of the above facts the claim of the miners is denied.

Respectfully submitted,

s/s W. L. A. Johnson

John P. White

Interstate Joint Commission.