

Award No. 558
Docket No. 506
2-B&OCT-BM-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee William E. Helander when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 130, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (BOILERMAKERS)**

**THE BALTIMORE & OHIO CHICAGO TERMINAL
RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: That Rule 18 of the current agreement was violated by taking J. Waldhand, I. Cutler and Z. Dutton out of service without giving them four days' advance notice and that they should be paid the amounts indicated below in connection with the dates they were removed from service:

Classification	Date Furloughed	Time Due	Rate	Amount Due
J. Waldhand—B. M.	Nov. 10, 1939	32 Hrs.	85¢	\$27.20
J. Waldhand—B. M.	Nov. 14, 1939	32 Hrs.	85¢	27.20
I. Cutler—B. M. H.	Nov. 11, 1939	32 Hrs.	62¢	19.84
I. Cutler—B. M. H.	Dec. 6, 1939	32 Hrs.	62¢	19.84
Z. Dutton—B. M.	Nov. 25, 1939	32 Hrs.	85¢	27.20

EMPLOYEES' STATEMENT OF FACTS: J. Waldhand was taken out of service November 10, 1939, and again on November 14, 1939, without being given four days' advance notice. I. Cutler was taken out of service November 11, 1939, and again on December 6, 1939, without being given four days' advance notice. Z. Dutton was taken out of service November 25, 1939, without being given four days' advance notice.

POSITION OF EMPLOYEES: Rule 18 of the current agreement between System Federation No. 130, Baltimore & Ohio Chicago Terminal Railroad Company, effective September 1, 1926 reads as follows:

Reduction in Force:

"(a) When it becomes necessary to reduce the forces at any point or in any department or subdivision thereof, seniority as per Rule 22 to govern; and employees affected to take the rate of the job to which they are assigned.

(b) When force is reduced, four days' notice will be given the men affected before reduction is made, and lists will be furnished the local committee.

only the filling of temporary vacancies in the regular assigned force, has much less support than the claims covered by these two awards.

The carrier feels that the inconsistencies and lack of any merit in the employees' claim will be immediately and clearly apparent to your Board, and not needing extended rebuttal, but the carrier also feels obliged, in the interest of proper defense, to point out only some of the evils that would result if a claim of this character should be sustained.

It is the position of the carrier that its denial of the claim of the employees is upheld by your Award No. 439, and that Rule No. 18 (b), relied upon by the employees in support of their claim, has no bearing in the case, since there was no reduction in force such as contemplated by the rule. Therefore, the claim of the employees is without any merit and should be denied.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

This Division has had many cases involving furloughed men called to fill assignments of one or more days' duration and then laid off without giving them notice required by the rules of agreements pertaining to reduction of forces. In all of the cases where the furloughed men were worked in addition to the regularly assigned men this Division, generally, has held the agreements required notice.

This case, however, involves the employment of furloughed men called to fill the places of regularly assigned employees who laid off.

The force, in the instant case, was not increased or reduced and, therefore, it was not necessary under these circumstances to give the employees involved in this case four days' notice before they could be laid off.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 29th day of January, 1941.