

The Second Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

Parties to Dispute: (System Federation No. 30, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Electrical Workers)
(
(The Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

That the Baltimore and Ohio Railroad Company violated the provisions of Rule 24(b) of the controlling agreement as amended by Article III of the Agreement of June 5, 1962, when they arbitrarily withheld Electrician Helper W. E. Bishop, Jr., Apprentice Electricians P. L. Shahan and R. L. Bowman from the service of the Carrier commencing on June 3, 1971, without according the claimants their contractual rights under the Force Reduction Rule.

That accordingly, the Baltimore and Ohio Railroad be ordered to compensate Claimants, W. E. Bishop, Jr., P. L. Shahan and R. L. Bowman five (5) days pay each, at the applicable pro rata rate of pay in their respective work classification.

Findings:

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

Parties to said dispute waived right of appearance at hearing thereon.

On October 3, 1971 Claimants herein were furloughed as a result of strikes by coal miners and dock workers. Petitioner agrees that the furloughs were made in conformity with the provisions of Article II of Public Law 91-226 effective February 19, 1970. The strike ended on November 21, 1971, but Claimants were not recalled. On December 3, 1971 Claimants were given notices that their temporary furloughs would be changed to permanent furloughs five working days later, on December 10, 1971. The dispute in this matter involves

Petitioner's contention that Claimants should have been
work the five days following the notice dated December
pertinent contract rule reads:

"Rule 24 (b) as amended by the June 5, 1962 Agree-

Advance Notice Requirements.

Effective July 16, 1962, existing rules providing
notice of less than five (5) working days be given
abolishment of position or reduction in force
revised so as to require not less than five (5)
days' advance notice. With respect to employees
regularly established positions where existing
require advance notice before such position is
not less than five (5) working days' advance
given before such positions are abolished.
of Article VI of the August 21, 1954 Agreement
constitute an exception to the foregoing require-
this Article."

The Organization contends that the Rule above
for not less than five working days' advance notice
stated that since a furloughed employee has no
order to effect a five days' advance notice, the
status must be established.

Carrier argues that there is neither any
Carrier from issuing permanent furlough notice
on temporary furlough, nor any rule requiring
temporarily furloughed employees to work before
furlough notices.

In Award 1469, dealing with a related problem

"We think the rule contemplates that the
employees to be furloughed in securing
may be given to them while they are on
absent because of illness, as well as
working their positions."

This reasoning was applied to the situation
instant dispute in Award 6412 and a series
In Award 6412, we said:

"It is evident that an advance notice
already on furlough is not provided

The principle expressed in Award 6412 is
rule support for the position that employees
must be brought back to work so that Carrier
notice requirements for permanent furlough
that the Claim has no merit

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Award No. 6673
Docket No. 6557
2-B&O-EW-'74

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 17th day of April, 1974.