

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

Parties to Dispute: (Sheet Metal Workers' International
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(Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That the carrier improperly removed Sheet Metal Worker Apprentice B. C. Murphy from his regular employment without proper notice to him, or the local chairman.
2. That Sheet Metal Worker Apprentice B. C. Murphy be restored to the service of the carrier, the claimant B. C. Murphy, being paid for all time he has been off and be paid until there is a bulletin posted properly and in accordance with the working agreement. Also make claimant whole for all vacation rights, pay all hospital or medical cost actually accumulated by claimant or his family, pay the premiums for group life insurance for all time held out of service, pay claimant for all holidays provided for in the contract, pay claimant for premiums in the contract other than life insurance.

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 employes 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.

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

Claimant was "bumped" without notice by an employee senior to him as a result of a force reduction at Carrier's Shop at Waycross, Georgia. Claimant's name did not appear on the force reduction bulletin, and the Organization contends that Carrier violated Rule 23(d) and (e) of the Agreement between the parties.

Rule 23(d) states:

"The supervision will in all cases, advise the local chairman in writing of any change to be made in the forces as far in advance as practicable before being made effective."

Rule 23(e) states:

"When the force is to be reduced or a position abolished, five (5) working days notice by bulletin shall be given the affected employee or employees, in advance of the effective date of such abolishment or reduction in force."

The question, therefore, is: Was Claimant an "affected employee" so as to be entitled to the five day notice?

This Board has had prior occasion to rule in similar situations involving similar rules. In denying the claim, the Board in Second Division Award No. 2274 stated:

"It is the organization's thought that the words 'men affected', as used in Rule 22(b), and of whom a list is to be furnished the local committee, includes all employees affected thereby whether because of the fact that their positions are being abolished or because of the fact that they are being displaced, in the exercise of their seniority, by those whose positions are being abolished. Occupants of positions being abolished in a reduction of force by the carrier may either lay off or exercise seniority as per Rule 24 of the parties' agreement. See Rule 22(a) thereof. We think the language used in Rule 22(b) should be applied to the subject of the bulletin to which it relates. In that sense the 'men affected' are those whose positions are being abolished. If we were to extend its meaning beyond that subject, and relate it to all employees who might become affected because of the fact that the men whose positions were being abolished might have and would exercise their seniority, we would place on the carrier an almost impossible, and certainly an impractical requirement, for carrier would then have to anticipate what each employee was going to do. We do not think such was either the intent, meaning of purpose of the language used."

Second Division Award 4089*/ followed the rationale of Award 2274 finding:

*/ The Organization asserts that Award 4089 is not applicable because it was decided eight years prior to Rule 23(d) and (e). While this is so, the language of the rule in Award 4089 is similar in intent and meaning. It read:

"Seven calendar days' notice will be given employees affected before reduction is made and lists will be furnished the Local Chairman."

"The Rules contain no such provision; nor do they require seven days' notice to employes bumped, or seven days' delay before the senior employes can receive the benefit of their seniority rights.

"The causes of Nation's and Beal's displacements were the respective elections by two senior employes to bump them. Since these causes intervened between them, the force reduction and the displacements do not constitute cause and effect, and these claimants cannot be held to have been affected by the reduction itself. If they were affected by it, within the meaning of the rule, so were the employes they may then have displaced, and so on indefinitely. We necessarily hold that the employes affected, within the meaning of Rule 16(b), were those directly concerned.

"This concurs with Awards 2274 and 3591, in which this Division also held that notice of the positions abolished is notice to all other employes of their possible displacement by their seniors, if any, among the employes named."

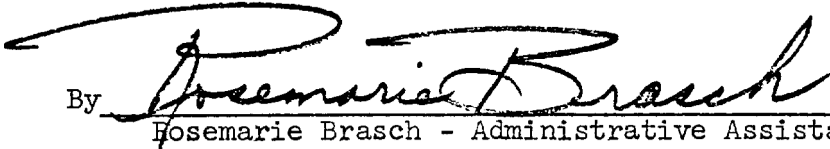
See also Second Division Award Nos. 5547 and 6683 to the same effect. This Board is of the opinion that the reasoning of these awards is sound and concurs in the results.

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 16th day of May, 1975.