

The Second Division consisted of the regular members and in addition Referee Carlton R. Sickles when award was rendered.

Parties to Dispute: (International Brotherhood of Electrical Workers
(National Railroad Passenger Corporation

Dispute: Claim of Employees:

1. That the National Railroad Passenger Corporation (Amtrak) violated Rule 9 (a) of the September 1, 1975 Agreement when they did not afford Electrician John Blanchard advance notice under this rule when they abolished his position at Houston, Texas on January 13 and 14, 1979, thereby, depriving him of work week assignment and contractual rights under the Agreement.
2. That, accordingly, Carrier be ordered to compensate Electrician John Blanchard eight (8) hours at the straight time rate for January 13 and 14, 1979, respectively.

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 objects to not receiving five days' notice when his position was abolished on January 13 and 14, 1979. The carrier justifies its action as a permissible exception to the normal five-day notice requirement. This because of the fact that on the first date, January 13, the carrier's train did not complete its run because of the turn-around of its train prior to its ultimate destination. This was caused by an extended delay resulting from a track derailment of a train in its path. The Second day involved, namely, January 14, resulted from a severe snowstorm which affected train movement.

The question at issue is whether the reasons given were adequate for the exceptions to Rule 9 as provided in Section (b) of that Rule which provides that the advance notice is not required under "emergency conditions such as flood, snowstorm, hurricane, tornado, earthquake, fire or strike, provided that such conditions result in suspension of the company's operations in whole or in part".

With respect to the second day involved, it seems abundantly clear that

the snowstorm was proximate cause for the reduction and is authorized. With respect to the **first** day, since the words, "wreck", or "derailment", are not specifically included in the list of examples in 9(b), a question may be raised as to whether they are included in the concept of emergency conditions. This Board recognizes, however, that those examples provided in the Rule are not intended as a limitation of the circumstances that would be considered an emergency condition, but are examples of the kinds of things that might be considered emergency conditions and certainly the circumstance of a derailment which causes an extended delay of one of the carrier's trains can be considered as an emergency condition under the circumstances involved here which would fall within the exception as outlined in Part (b) of Rule 9.

The organization objects to the delay between the time that the carrier outlined to the organization the nature of the emergency conditions and the time when it provided supporting evidence for these conditions. We do not find that this delay materially affects the matter before us since it is not the late raising of a new issue, but rather the delayed verification of issues that were specifically enumerated in the course of the deliberations, and the information was provided while the matter was still being considered on the property.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 19th day of May, 1982.