Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12956
Docket No. 12757
95-2-93-2-141

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (International Brotherhood of Firemen
(and Oilers (System Council No. 15)
(
(Burlington Northern Railroad Company

STATEMENT OF CLAIM:

"1. That the Burlington Northern Railroad Company violated Article 1, Section 4 of the September 25, 1964 Agreement, when it failed to provide a 60 day notice of intent to change operations at Wenatchee, Washington, as it pertains to Messrs. D. Weller, M. Brauer, E. Gaona, and Ms. S. Wright.

2. The Burlington Northern Railroad Company further violated the September 25, 1964 Agreement, when it failed to provide the protective benefits to Messrs. D. Weller, M. Brauer, E. Goana, Ms. S. Wright; Messrs. E. Flaherty, G. Goodwin and D. Mengelos, who were affected as defined in Article 1, Section 2, paragraph A, B, and C.

3. That Article 1 of the September 25, 1964 Agreement in its entirety afford protective benefits to employees adversely affected as a result of the changes by the Burlington Northern Railroad Company, as set forth in Section 2 of Article 1. In the instant case, Section 2, Paragraph A, B. and C.

4. That accordingly, the Burlington Northern Railroad Company be ordered to make Messrs. D. Weller, M. Brauer, E. Gaona, and Ms. S. Wright, whole by payment for time lost due to the absence of the 60 day advance notice of intent, and further that the protective benefits be applied to the employees listed above, and Messrs. E. Flaherty, G. Goodwin and D. Mengelos."

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.

The Carrier announced on May 20, 1991 that four Laborer positions would be abolished at Wenatchee, Washington. Three of these laborers exercised seniority at other locations, displacing three other Laborers. The Organization contends that the job abolishments were a direct result of a "change in operations" by the Carrier in that all locomotive power changes at Wenatchee were to be discontinued and the fueling of locomotives was discontinued. The Organization claims the "discontinued work" was transferred to Spokane, Seattle and Everett, Washington.

Under these circumstances, the Organization seeks protective benefits for the Claimants under Article 1, Section 2, of the September 25, 1964 Agreement, which reads as follows:

> "The protective benefits of the Washington Job Protection Agreement of May, 1936, shall be applicable, as more specifically outlined below, with respect to employees who are deprived of employment or placed in a worse position with respect to compensation and rules governing working conditions in the operations of this individual carrier:
>
> A. Transfer of work;
> B. Abandonment, discontinuance of 6 months or more, or consolidation of facilities or services or portions thereof;
> C. Contracting out of work;"

The Carrier fully concedes that it stopped fueling locomotives at Wenatchee. The Carrier states that, prior to the March 16, 1991 force reduction, it fueled all locomotives at both Seattle and Spokane and then "topped off" the fuel tanks at Wenatachee. The Carrier undertook a six-month study and determined that the relatively small fuel additions at Wenatchee (an average of 872 gallons) was no longer necessary. Thus, it decided simply to cease this operation at Wenatchee.

The Organization argues that the Claimants were placed in a worse condition because of the Carrier's operations involving "... abandonment, discontinuance for 6 months or more, or consolidation of facilities or service, or portions thereof."

The Organization made other assertions as to "contracting out" of fuel supply for locomotives, but the Carrier offered evidence that this did not occur at Wenatchee.

The Board finds that discontinuance of a "topping off" operation does not constitute a transfer of work. No operation was moved from one location to another. As to abandonment, there is no question that some operations continue at Wenatchee. Given these circumstances, there is no basis to find the Claimants are eligible for protective benefits on the basis of the May 1991 change of status.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 18th day of September 1995.