

Award No. 363

Docket No. 356

2-DL&W-EW-'39

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee John P. Devaney when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 78, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (ELECTRICIANS)**

**THE DELAWARE, LACKAWANNA AND WESTERN
RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYES: That Electrician William Evans, at Kingston enginehouse, was unjustly dealt with, and provisions of the agreement in the motive power and equipment department, effective November 1, 1935, have been violated, between July 10 and September 18, 1938, growing out of being unjustly furloughed, should be compensated for all time lost.

EMPLOYES' STATEMENT OF FACTS: William Evans was hired as electrician at the Kingston enginehouse, February 25, 1924, and continuously employed until July 10, 1938.

That a notice was issued July 5, posted July 6, stating that the force would be reduced, effective July 10, at which time William Evans was laid off over the protest of the local committee. He was restored to service July 22, furloughed July 26, restored to service July 28 and notified to work four days, or until July 31, at which time he would be laid off. August 1 a new working schedule for the entire month of August was posted and designated the bulletined days off for Electrician Evans as 3, 10, 17, 24 and 31, thereby superseding the previous notice that he would be laid off on July 31, and was retained in service.

August 5, he was notified at 3:00 P. M. to stay home until Tuesday, August 9. On August 8, he received a telephone message at his home to stay home until further notice. He was restored to work August 29. On September 2, he was notified that he was laid off until further notice. Restored to service September 3, and laid off the same day. He was restored to service September 9, and laid off the same day. Restored to service September 12, worked four days; laid off September 15 until further notice; restored to service September 19, and remained in service.

That in accordance with agreement in motive power and equipment department and pursuant to November 1, 1935, and until the month of July, 1938, when it was necessary to reduce expenses and reduce the force at Kingston enginehouse, all employees covered by this agreement were given four days' notice before the force was reduced.

We submit from the foregoing that the EXCEPTION to Rule 22 did and does apply to Kingston enginehouse and the claim filed on behalf of William Evans 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 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.

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

Rule 22 reads as follows so far as it affects the situation herein:

"If the force is to be reduced, four days' notice will be given the men affected before reduction is made and lists will be furnished the Local Committee."

The action of the carrier herein is clearly a violation of Rule 22 as William Evans was furloughed on several occasions without the proper notice provided in Rule 22.

The exception relied upon by the carrier is not applicable because assuming without deciding that this exception was properly agreed upon and adopted, there is no showing that any conferences or meetings were held between the employes and the carrier to determine what points should be covered by the exception.

AWARD

Claim sustained.

Electrician William Evans shall be compensated for all time lost on account of violation of agreement.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 2nd day of August, 1939.