

Award No. 372  
Docket No. 370  
2-FtS&W-FT-'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. 5, RAILWAY EMPLOYES'  
DEPARTMENT, A. F. OF L.**

**FORT SMITH AND WESTERN RAILWAY**

**DISPUTE: CLAIM OF EMPLOYES:** That the employees working in the locomotive and car departments of the carrier be compensated in the amount of four days' pay due to being improperly furloughed; that those employees who returned to service at later dates and again were improperly furloughed be compensated an additional four days' pay for each time furloughed. Following is copy of submitted list of names of employees involved:

**"WAGE CLAIM OF EMPLOYES—LOCOMOTIVE AND CAR DEPARTMENTS—FORT SMITH & WESTERN RAILWAY, IMPROPERLY FURLOUGHED DURING THE MONTH OF JANUARY, 1939**

| <sup>1</sup><br>POSITION | <sup>2</sup><br>NAME OF EMPLOYEE | <sup>3</sup><br>DATE OF FURLOUGH | <sup>4</sup><br>HOURLY RATE | <sup>5</sup><br>HOURS DUE | <sup>6</sup><br>TOTAL WAGES DUE |
|--------------------------|----------------------------------|----------------------------------|-----------------------------|---------------------------|---------------------------------|
| Machinist                | L. L. Van Norsdall               | 1/24/39                          | \$.75                       | 32                        | \$24.00                         |
| " "                      | Felix Choppesky                  | 1/24/39                          | .70                         | 32                        | 22.40                           |
| " "                      | Harry Choppesky                  | 1/22/39                          | .75                         | 32                        | 24.00                           |
| " "                      | William Woodward                 | 1/19/39                          | .75                         | 32                        | 24.00                           |
| " "                      | A. J. Daniels                    | 1/19/39                          | .75                         | 32                        | 24.00                           |
| " "                      | Delmar Coffman                   | 1/19/39                          | .70                         | 32                        | 22.40                           |
| " "                      | F. E. Byrd                       | 1/19/39                          | .70                         | 32                        | 7.36 <sup>1</sup>               |
| Mach. Hlpr.              | C. F. McClain                    | 1/24/39                          | .47                         | 32                        | 6.16 <sup>2</sup>               |
| " "                      | H. C. Johnson                    | 1/24/39                          | .47                         | 32                        | 3.20 <sup>3</sup>               |
| " "                      | Max Halie                        | 1/19/39                          | .47                         | 32                        | 15.04                           |
| " "                      | F. E. Byrd                       | 1/24/39                          | .47                         | 32                        | 15.04                           |
| " "                      | Dave Holland                     | 1/19/39                          | .47                         | 32                        | 15.04                           |
| " "                      | Frank Haas                       | 1/19/39                          | .47                         | 32                        | 15.04                           |
| " "                      | L. D. Funk                       | 1/19/39                          | .47                         | 32                        | 15.04                           |
| Boilermaker              | J. H. Byrum                      | 1/24/39                          | .75                         | 32                        | 24.00                           |
| " "                      | Everett Eubanks                  | 1/24/39                          | .75                         | 32                        | 24.00                           |
| " "                      | P. J. Hart                       | 1/19/39                          | .70                         | 32                        | 22.40                           |
| " "                      | Nick Verfourth                   | 1/19/39                          | .70                         | 32                        | 22.40                           |
| Blmkr. Hlpr.             | J. O. Lee                        | 1/24/39                          | .54                         | 32                        | 17.28                           |
| " "                      | J. P. Whitehouse                 | 1/24/39                          | .49                         | 32                        | 15.68                           |
| " "                      | Dot Johnson                      | 1/19/39                          | .49                         | 32                        | 15.68                           |
| " "                      | Walter Meeks                     | 1/19/39                          | .49                         | 32                        | 15.68                           |
| " "                      | T. M. Mooney                     | 1/19/39                          | .49                         | 32                        | 15.68                           |
| " "                      | W. N. Knight                     | 1/19/39                          | .49                         | 32                        | 15.68                           |

The carrier states that there is no basis for the claim alleged herein; that it has not been properly brought before the Board, and that this Board is without jurisdiction to proceed further herein, and that the same should be dismissed.

**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 27 of the agreement in force provides as follows:

"When it becomes necessary to reduce expenses, the force at any point or in any department or subdivision thereof shall be reduced, seniority as per Rule 31 to govern; the men affected to take the rate of the job to which they are assigned. Four (4) days' notice will be given men affected before reduction is made, and lists will be furnished local committee. In the restoration of forces, senior laid-off men will be given preference of re-employment, if available, within a reasonable time, and shall be returned to their former position; local committee will be furnished list of men to be restored to service; in reducing force the ratio of apprentices will be maintained."

This rule is not subject to exception. It must be applied.

#### AWARD

Claim of the employes sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 4th day of August, 1939.