

Award No. 1246
Docket No. 1176
2-NC&StL-MA-'48

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 83, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (MACHINISTS)

THE NASHVILLE, CHATTANOOGA & ST. LOUIS RAILWAY

DISPUTE: CLAIM OF EMPLOYES:

1. That effective at the close of assignments April 15, 1947, one machinist, 11 machinist apprentices and 30 machinist helpers, were each rolled or bumped out of service without four days' notice, and without a list thereof furnished to the local chairman, in violation of the current agreement.

2. That accordingly the carrier be ordered to reimburse the aforesaid affected employes each in the amount of four days' wages at the respective applicable rates of pay.

EMPLOYES' STATEMENT OF FACTS: At Nashville shops, Tennessee, the carrier made the election to reduce expenses, and the methods employed to do so are described in the copies submitted of notices dated April 11, 1947, identified as Exhibits A, A-1, A-2, and A-3, copy of notice dated April 12, 1947, identified as Exhibit A-4, and MINUTES OF MEETING held between the local committee and the master mechanic on April 22, 1947, copy of which is submitted and identified as Exhibit B. The machinist, the machinist apprentices and the machinist helpers listed in said Exhibit B are those referred to in the statement of claim.

The carrier has declined to adjust this dispute, although in a subsequent reduction in force the provisions of the current agreement were strictly followed.

The agreement dated, "Rules revised to December 30, 1944", is controlling.

POSITION OF EMPLOYES: It is submitted that there is nothing contained in that part of Rule 21, reading—

"When it becomes necessary to reduce expenses, the hours may be reduced to forty (40) per week before reducing the force. When the force is reduced, seniority as per Rule 24 will govern, the men affected to take the rate of the job to which they are assigned."

G. A. Hutcherson, who forfeited his seniority when he failed to respond to recall to service during March, 1947, and William R. Price, who was furloughed in a force reduction on January 4, 1947.

In conclusion the carrier respectfully submits that the accepted practice of long standing, of abolishing jobs and permitting the employees whose jobs are abolished to exercise displacement rights, is in accordance with Rule 53 and the agreed-to interpretation of Rule 21. It is therefore obvious the claim is without merit and 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 employees involved in this dispute are respectfully 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.

The record in this case shows that the provisions of Rule 21 have not been properly applied for a long period of time.

It further shows that the parties have been making efforts to reach a common understanding.

The proper procedure, under Rule 21, when making a reduction in forces is: the carrier will post a notice not less than four days prior to the reduction stating how many employees in each class will be furloughed and when it will take effect.

At the same time the carrier will give to the proper committee a list of the employees to be furloughed.

If there is a necessity to rearrange the forces that remain in service such rearrangements are proper in which event the provisions of Rule 53 become operative. The provisions of Rule 53 or the provisions of the so-called interpretations of Rule 21 do not apply to men who become furloughed. The so-called "abolition of positions" cannot be used to cause the removal of employees from service contrary to the proper furloughing provisions of Rule 21.

Due to the facts as contained in this case it would be improper to sustain the claim for four days' wages for the claimants.

AWARD

1. Sustained in accordance with above findings.
2. Reimbursement asked in the claim is denied in this case.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 27th day of May, 1948.