

Award No. 1339
Docket No 1265
2-AT&SF-MA-'49

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee J. Glenn Donaldson when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION No. 97, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Machinists)

THE ATCHISON, TOPEKA & SANTA FE RAILWAY
COMPANY (Western Lines)

DISPUTE: Claim of Employees: That Machinist Helper Mike Franco was laid off at the close of his shift on November 25, 1947, without proper advance notice under the current agreement, and that accordingly the carrier be ordered to reimburse him in the amount of eight hours each at his pro rata rate on November 26, 28 and 29, 1947.

EMPLOYES' STATEMENT OF FACTS: The carrier employed Mike Franco as a machinist helper, June 11, 1945, at La Junta, Colorado, and his regularly assigned hours on November 25, 1947, were from 11 P. M. to 7 A. M. in the La Junta round house. On November 25, 1947, Mr. Ray Brown, general foreman, handed a notice to Local Chairman L. L. Angelton and requested that the notice be affixed to the time card of Mike Franco. This notice advised Mike Franco that his services would no longer be required, effective with close of his shift on November 25, 1947. Local Chairman Angelton contended with General Foreman Brown that Franco should be given three days' notice of furlough but he was advised by Mr. Brown that this was not required and Mr. Brown also read a letter to that effect signed by Mr. S. C. Kirkpatrick, highest appealing officer of the carrier. This is confirmed by letter addressed to Master Mechanic W. W. Lyons under date of November 30, 1947, by Local Chairman Angleton, copy of which is submitted and identified as Exhibit "A".

Effective with the close of his shift on November 25, 1947, Machinist Helper Mike Franco was laid off and has been without employment with this carrier since that date. Master Mechanic Lyons made reply to Local Chairman Angleton's letter of November 30, 1947, under date of December 9, 1947, and declined the claim and copy of this letter is submitted and identified as Exhibit B.

The claim was subsequently handled by Vice General Chairman James Taylor and General Chairman B. O. Bristow through the regular channels of appeal in accordance with agreement provisions to Mr. S. C. Kirkpatrick, highest appealing officer of the carrier as confirmed by General Chairman Bristow's letter of February 24, 1948, copy of which is submitted and identified as Exhibit C.

4. Franco was displaced by senior machinist helper in accordance with the provisions of Rule 41 of the current agreement.

5. Franco was the junior machinist helper in point of service at La Junta on November 25, 1947, when displaced by a senior machinist helper.

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.

We find no basis for applying Rule 24 to the case at hand. Irrespective of caption, the text of said rule deals exclusively with the subject of reduction of force and we find that the phrase "to . . . adjust forces," appearing in sub-section (a) thereof, was intended to relate solely to adjustments resulting from reductions in force brought about by the carrier. We are not concerned here with a displacement so resulting, therefore, the notice requirements of Rule 24 (c) do not apply. Claimant's displacement and furlough resulted from an exercise of seniority which had no connection with a force reduction at this point of employment, La Junta, Colorado. The force of machinist helpers at La Junta was neither increased nor decreased by any act of the carrier.

Williams' reason for transfer was immaterial because sub-section (a), Rule 24, expressly provides "the force at any point, shop, department or subdivision thereof to be considered separately." (Emphasis supplied.)

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 11th day of August, 1949.