

Award No. 1701
Docket No. 1587
2-PULL-EW-'53

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Adolph E. Wenke when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYES' DEPT.
A. F. of L. (Electrical Workers)

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement the Carrier on July 13, 1951 posted a notice furloughing all Electrical Workers effective July 14, 1951.

2. That accordingly the Carrier be ordered to compensate the following Electrical Workers for five days' pay:

D. M. Crider	C. A. Johnson
A. A. Applequist	M. F. Sullivan
J. E. Omenski	C. G. Key
R. O. Naylor	D. S. McGee
C. H. Brown	C. M. Ramsey

EMPLOYEES' STATEMENT OF FACTS: Electrical workers named above hereinafter referred to as the claimants, were furloughed effective July 14, 1951, by a notice posted on the shop door by Mr. H. M. Leonard, general foreman, The Pullman Company, Kansas City, Missouri, on July 13, 1951.

The carrier on July 13, 1951, verbally notified the following electrical workers to disregard the notice posted and to continue working their regular bulletin hours:

W. R. Segraves	E. O. Grimm
T. J. Wallace	R. O. Flinn
N. Glass	

The agreement effective July 1, 1948 as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is submitted that the action of the carrier in the instant dispute is contrary to the provisions of the current

gency, were working, on which days no regular relief days fell (Exhibit U). Also, during the emergency the Kansas City Terminal Company worked as many of the employes as cared to work with shovel or broom, a type of work to which Pullman electricians do not claim they are entitled.

In this dispute the organization does not deny the fact that an emergency condition existed during July 14-28, 1951, but objects to the application of Rule 69 and certain facts presented by management as to the exact nature of the emergency and the number of men required to work on the dates in question (Exhibit O). However, any differences of opinion arising in this connection are only slightly related to the instant dispute. The specific issue to be decided in this dispute is whether in the emergency management properly applied the provisions of Rule 69 on July 13, 1951. Also, the organization asserts in support of its contention that the provisions of Rule 48 should have been applied and that management permitted the stores department to give its employes a 5-day notice of furlough. In reply to this contention management wishes to call attention to the fact that the reason these employes were furnished a 5-day notice of furloughs was that the agreement between The Pullman Company and this class of employes, represented by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, does not contain a rule similar to Rule 69 of the agreement between The Pullman Company and its electrical workers. Finally, the company wishes to point out that the Brotherhood Railway Carmen of America initially protested the fact that its members were laid off in the same manner as were the electricians. Subsequently, however, the Brotherhood Railway Carmen agreed that the company's action was proper under the provisions of Rule 19 of its agreement, which rule is identical in language to Rule 69 of the electrical workers' agreement and bears the same title.

CONCLUSION

The company has shown that management properly applied the provisions of **Rule 69. Work When Shops or Yards Are Closed Down Due to Emergencies**, as contemplated by the parties, when on July 13, 1951, in the emergency condition existing in Kansas City, management laid off, effective July 14, 1951, electricians in the Kansas City District. Also, the company has shown that Rule 48, which rule requires a 5-day notice of furlough, is not applicable to this dispute in that it relates to company procedure and practices in situations involving a reduction of forces. The organization's claim that Electricians D. M. Grider, A. A. Applequist, et al., are entitled to five days' pay in lieu of the 5-day notice of furlough to which they were allegedly entitled 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 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.

Apparently because of a decline in its service needs the Company, on July 12, 1951, notified five of the claimants they would be furloughed as of July 19, 1951. This was in accordance with the requirements of Rule 48 of the parties' agreement which provides for not less than five working days' notice to employes to be furloughed when forces are being reduced. However, on July 13, 1951, because of a flood then existing in the Kansas City area which had completely inundated the Kansas City Terminal Yards, the Company furloughed all of its electrical workers as of July 14, 1951. The latter action did not meet the notice requirements of Rule 48. However the

six senior electricians were regularly kept on the payroll during the period of the flood. They performed their work in the Union Station, Broadway Yards or at the McGee Team Track Yards for the Terminal Yards were, for all practical purposes, closed.

Rule 48, in so far as here material, provides:

"Advance Notice of Force Reduction. Not less than 5 working days' notice . . . shall be given to employes to be furloughed before a reduction in force is made . . ."

The claim here made in behalf of ten electrical workers is based on the fact that when they were placed on a furloughed status as of July 14, 1951 it was done without their being given the five working days' notice required by Rule 48.

Rule 48 has, by its own language, no exceptions or qualifications to the requirement that the Company must give the employes being furloughed, because of a reduction in forces, not less than five working days' notice thereof before it can do so and, unless an exception or qualification thereof is contained in some other rule of the agreement relating thereto, must be applied accordingly. See Award 372 of this Division and Award 6188 of the Third Division. The Company contends Rule 69 of the parties' agreement provides such qualification under the situation existing at Kansas City on July 13, 1951 when it furloughed the claimants.

Rule 69 provides:

"Work when Shops or Yards are Closed Down Due to Emergencies. Employes required to work when shops or yards are closed down due to breakdowns in machinery, floods, fires and the like, shall receive straight time for regular hours and overtime for overtime hours."

Rule 69 deals specifically with situations where work ceases to exist because of emergency situations, including floods. That was the situation at Kansas City Terminal Yards on July 13, 1951. Rule 69 is a qualification of Rule 48 when a situation exists to which Rule 69 has application. When Rule 69 has application the Company is not required to give employes, whose services are no longer needed because the work they normally performed has ceased to exist, the five working days' notice required by Rule 48 before it can place them on a furloughed status. It can do so immediately but if it should require any employe or employes so furloughed to perform work it must pay them according to the provisions of Rule 69. That is what the Company did and, in doing so, it complied with its agreement with its electrical workers represented by the International Brotherhood of Electrical Workers, System Council No. 24.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 17th day of September, 1953.