

**Award No. 3130**

**Docket No. 2842**

**2-RF&P-CM-'59**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when award was rendered.

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 41, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. of L.—C. I. O. (Carmen)**

**RICHMOND, FREDERICKSBURG AND POTOMAC RAILROAD  
COMPANY, THE**

**DISPUTE: CLAIM OF EMPLOYEES:**

1. That under the controlling agreement Rule 24 was violated when Carmen R. W. Mills, C. E. Beasley and J. D. Childress were relieved and laid off at 1:15 A. M. on July 25, 1956, without proper notice.

2. That, accordingly, the Carrier be ordered to compensate said Carmen 8 hours at straight time rate for July 26, 27, 28 and 29, 1956, due to being furloughed without proper notice.

**EMPLOYEES' STATEMENT OF FACTS:** R. W. Mills, C. E. Beasley and J. D. Childress hereinafter referred to as the claimants, were employed by the Richmond, Fredericksburg and Potomac Railroad Company, hereinafter referred to as the carrier, as carmen at Acca Freight Car Repair Shop at Richmond, Virginia.

On July 11, 1956, the carrier posted a first bulletin, copy submitted herewith and identified as Exhibit A, notifying the employees of the various shops of the necessity for closing the departments.

Under date of July 13, 1956, the carrier posted a second bulletin, copy submitted herewith and identified as Exhibit B, listing the names of the employees in the freight car shop who would be affected by the closing down of the shops from July 16 to 30, 1956.

may utilize on a temporary basis the services of employes on furloughed status and may release them at the conclusion of the emergency period without the necessity for giving four (4) days' notice and that there are no provisions in the existing agreement requiring such advance notice under these conditions. To require the carrier to give advance notice of four days before employes could be returned to their furlough status in cases of such emergencies would in effect create a hardship on the respondent and would have the effect of writing provisions in the agreement which were not intended by the parties when the agreement was consummated.

2. The carrier respectfully submits to your Board that the agreement has not been violated, that Rule 24 has no application to this dispute and the claim is therefore without merit and should be denied in its entirety.

**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.

Parties to said dispute waived right of hearing thereon.

These three claimants after proper notice and furlough pursuant to a bulletin which mentioned "lists of those desiring to accept calls for emergency work during the period in which shops are closed down", were called for wreck service without regard to their seniority.

They now claim that they were entitled to four days' notice before reduction of forces as provided in Rule 24.

We conclude that the claimants were not "worked in addition to the regularly assigned men" that the force had not been restored and that the claimants were not part of a reduction of forces. When they were called in the emergency they knew they were not to be used in their old shop job from which they were already furloughed.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 16th day of March, 1959.

#### DISSENT OF LABOR MEMBERS TO AWARD NO. 3130.

The majority concedes that the claimants "were called for wreck service without regard to their seniority." This being true the majority should

have found that Rule 24 was violated as this rule requires “. . . men will be returned to service according to seniority . . .”

The instant findings and award constitute a misapplication of the controlling agreement.

**James B. Zink**

**R. W. Blake**

**C. E. Goodlin**

**T. E. Losey**

**Edward W. Wiesner**