

Award No. 3704
Docket No. 3208
2-MP-CM-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee James P. Carey, Jr., when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement the Missouri Pacific Railroad Company improperly furloughed Carman W. M. Monthey without giving him four (4) working days' notice as provided for in Rule 21(b).

2. That accordingly, the Missouri Pacific Railroad Company be ordered to compensate the Claimant in the amount of eight (8) hours per day at the pro rata rate for each day that he was denied proper notice, beginning with June 24, 1957.

EMPLOYEES' STATEMENT OF FACTS: Carman W. M. Monthey, hereinafter referred to as the claimant, is an employe of the Missouri Pacific Railroad Company, hereinafter referred to as the carrier. The claimant is a regularly assigned car inspector in the train yards at Osawatomie, Kansas with work week of Saturday through Wednesday, hours 11:00 P. M. to 7:00 A. M., rest days Thursday and Friday.

On Sunday, June 23, 1957, at approximately 2:30 P. M., General Foreman, Mr. A. B. Alexander, notified the claimant by telephone that he was not to report for work on his regular shift which began at 11:00 P. M. that evening since he was being displaced by Carman Fred McCoach who had been working at Salina, Kansas under Rule 137 and when work terminated at that point he was required to return to Osawatomie, his home station. The claimant made inquiry to the general foreman regarding the four (4) working days' notice as provided for in Rule 21(b) of the agreement and was advised that he was not being given such notice, but that he was automatically furloughed, effective immediately.

Carman McCoach was given four (4) working days' notice before leaving his job at Salina, Kansas, but the claimant was furloughed without any notice other than the phone call from the general foreman advising that his furlough was effective immediately.

This case was handled with the highest designated carrier official, up to

posted at Salina, as stated in paragraph (2) of the carrier's statement of facts.

During the period in question in this dispute, the forces were not reduced at Osawatomie, and, accordingly, at no time was the force reduction notice required at that point.

Examination of the force reduction bulletin quoted in the carrier's statement of facts will show that Carman McCoach was shown as the man affected. It was Carman McCoach's position at Salina which was discontinued, and since there was no other position at Salina it follows that Carman McCoach was the man affected, and the notice properly named him as the man affected.

The position of the carrier is fully supported by Award 2274. The facts in that dispute are that the carrier posted a force reduction bulletin naming the car inspectors whose positions were abolished as the men affected. This Division held the notice was proper. In that case, the men named were senior employees who displaced the other employees resulting in the junior employee being the one out of a job. In the instant case, Carman McCoach displaced the junior carman at Osawatomie so a chain of displacements did not occur. But in other situations the carman affected in force reduction at a one-man point could be a senior employee and could set off a chain of displacements ending with the junior employee. The carrier cannot control who the employee will displace. Otherwise, the employee's seniority rights would be restricted. The interpretation which the employees are asking this Division to accept is not supported by the agreement, including Rule 21, and is entirely unreasonable. Award 2274 is clear precedent for a denial award.

This claim is entirely lacking in merit and must 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 employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

A prerequisite to the 4 days notice required by Rule 21(b) was that the force at Osawatomie was to be reduced. A force reduction at Salina was immaterial. In this case, Claimant was displaced by a senior carman and the numerical strength of the Osawatomie work force remained unchanged. Therefore, the claim lacks support.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 6th day of March, 1961.

DISSENT OF LABOR MEMBERS TO AWARD No. 3704

Contrary to the majority's finding, the fact that there was a force reduction at Salina is of vital importance. Important because the employees at Salina and Osawatomie are on one seniority roster. Thus the numerical strength of the working force on the seniority roster was reduced by one employe, namely Claimant Monthey. As Rule 21(b) requires "If the force is to be reduced four days working notice will be given the men affected" Claimant Monthey should have been given four days' notice and compensated as claimed.

Edward W. Wiesner
R. W. Blake
Charles E. Goodlin
T. E. Losey
James B. Zink