

**Award No. 3963**

**Docket No. 4037**

**2-WT-CM-'62**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 106, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)**

**THE WASHINGTON TERMINAL COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:** 1—That the carrier violated the current agreement, particularly Rule 22 paragraph (g) when it failed to notify or call Carmen Helpers, Toy Sullivan and Swanson Hunt for service on the 3:00 P. M. to 11:00 P. M. shift on September 14, 1960 while two junior Carmen Helpers were called and worked on said date.

2—That accordingly the carrier be ordered to compensate the aforesaid employes eight (8) hours pay each at applicable straight time rate for September 14, 1960.

**EMPLOYEES' STATEMENT OF FACTS:** Carmen Helpers Toy Sullivan, roster No. 306 and Swanson Hunt, roster No. 309, hereinafter referred to as the claimants were among several hundred Washington Terminal Co., hereinafter referred to as the carrier, employes furloughed between Sept. 2 and Sept. 8, 1960 as a result of a strike on the Pennsylvania Railroad.

The strike on the Pennsylvania Railroad was settled on Sept. 12, 1960 at which time carrier began to recall to service its employes furloughed as a result of the strike. In the recall of the employes carrier departed from the long established practice of mailing form notices to employes advising of the recall and resorted to notifying the employes by telephone. The responsibility of recalling these furloughed employes was assigned by carrier to Clerk Harold Tillman on Sept. 14, 1960.

During the early afternoon hours Clerk Tillman called a group of carmen helpers, including the claimants and advised them to report for work at the terminal at 3:00 P. M. Sept. 15, 1960. On the afternoon of the same date, Sept. 14, 1960, carrier Clerk Tillman, called Carmen Helpers Isiah Pelton, Jr., roster No. 313 and Alvis Pridgeon, roster No. 312 both of whom are junior to the claimants, at 2:25 P. M. EST and advised them to report for work at the Terminal at 3:00 P. M. EST for duty on the 3:00 P. M. to 11:00 P. M. shift Sept. 14, 1960. Carmen helpers Belton and Pridgeon reported as directed and worked the 3:00 P. M. to 11:00 P. M. shift Sept. 14, 1960.

Claimants were not called at any time on Sept. 14, 1960 and directed to return to work on Sept. 14, 1960.

each time it was decided to recall a specific number of employes. At the beginning of the strike, the organization had been furnished a list of the employes to be furloughed and was aware that the employes would be recalled in accordance with their seniority as the service was restored. It must be borne in mind that this was not a routine reduction in force but an emergency force reduction caused by the strike. The carrier submits that the question of whether the organization was furnished a list of the employes to be restored to service is immaterial in this dispute. Even if the organization had been furnished a list, Claimants Sullivan and Hunt would not have been worked on September 14, 1960, because they were not available when called for service on that date.

**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.

The record shows that due to a strike of shop craft employes on the Pennsylvania Railroad from September 1 to September 12, 1960, several hundred employes of the Washington Terminal Company were furloughed. Upon termination of the strike, said furloughed forces were recalled as increasing business warranted such action. On September 14, the claimants were contacted and advised to report on the 3:00 to 11:00 P. M. shift on September 15. This fact is not disputed. A situation arose necessitating additional forces on the same shift on September 14.

The petitioners argue that junior men were notified to report on the September 14 shift prior to notification of the claimants to report on September 15. It is contended by the Carrier that it attempted to contact the claimants for the purpose of having them report on September 14, but was unable to do so and therefore contacted men with less seniority as helpers and assigned them to work on that day.

In view of the conflicting evidence in the record the claim for compensation is dismissed; however, in order to avoid such conflicts in the future we wish to emphasize the desirability of complete compliance with Rule 22(g):

**“In the restoration of forces, senior laid-off men, including those who have waived their rights under paragraph (c) of this rule, will be given preference in returning to service, if available within a reasonable time. The local committee will be furnished a list of men to be restored to service.”** (Emphasis ours.)

#### AWARD

Dispute adjusted per above findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 11th day of April, 1962.