

Award No. 6272
Docket No. 6081
2-N&W-CM-'72

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 16, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)

NORFOLK AND WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Norfolk and Western Railway Company is in violation of Rule No. 17 of the Agreement of September 1, 1949, between the Norfolk and Western Railway Company, and the employes represented by System Federation No. 16, through failure to bulletin jobs and vacancies, in the Carmen's Craft, at the East End Shop, Roanoke, Virginia. Particularly so with respect to the temporary vacancy of Carman Welder R. D. Cook.

2. That the Norfolk and Western Railway Company, be ordered to comply with Rule No. 17, of Current Agreement and bulletin the job formerly held by said R. D. Cook, in such manner, as to describe the duties thereof, in an identifiable manner, so as to enable the employes to exercise their seniority in an intelligent manner in bidding on same.

EMPLOYEES' STATEMENT OF FACTS: The Norfolk and Western Railway Company hereinafter referred to as the Carrier maintains a Shop with facilities for the building and repairing of Cars at Roanoke, Virginia, commonly referred to as the East End Shop, which has a First and Second Shift operation for employes of the Carmen's Craft.

Prior to March 1969 Carman Welder R. D. Cook, held an assignment as a welder on the First Shift with Saturday and Sunday as regularly assigned rest days.

Such position was made vacant due to Mr. Cook's illness and being absent from his assignment for more than thirty (30) days.

A notice was posted by the Carrier on April 17, 1969, referred to as Bulletin No. 12, wherein it was stated that applications would be received, for one (1) welder Carman (temporary) First Shift, no description of the type of work to be performed on said position, as to make it either identifiable with

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 waived right of appearance at hearing thereon.

The Carrier maintains a shop with facilities for the building and repairing of cars at Roanoke, Virginia. There is a first and second shift operation for Carmen at this facility.

Prior to March 1969, Carman Welder R. D. Cook held an assignment as a welder on the first shift with Saturday and Sunday rest days.

This position became vacant due to Mr. Cook being ill and absent from his assignment for more than thirty days.

On April 17, 1969 this position was bulletined as a temporary vacancy. The Organization contends that the Notice was vague and did not satisfy the provisions of Rule 17 of the effective Agreement between the parties.

We find that this Division has decided identical disputes between the parties on nine occasions, with five different Referee participating. Each Award was a denial Award.

In Second Division, N.R.A.B., Award 6176 Referee Simons stated:

"Submission to the Board of basically the same issue, over and over again, requiring the participation of numerous referees, is derogatory of Board procedures, and if pursued indefinitely, can undermine the purposes and integrity of the Board and its procedures. In addition, such a course does not make good sense, if only for the fact that it is uneconomic. 'Forum Shopping,' or utilization of the board mechanism as if it were an oriental bazaar in which either party may continually re-adjudicate, in the hope of finally finding a referee to satisfy their tastes, is contrary to the spirit and intent of the National Railway Labor Act, and third-party participation in resolution of labor management disputes."

See also Second Division N.R.A.B. Awards 6034 (McGovern), 6069 (McPherson), 6091 and 6092 (Gilden), 6160, 6161 (McGovern) and 6217 (Dolnick).

We will deny the Claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of March 1972.

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