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NATIONAL RAILROAD ADJUSTMENT BOARD

Award No. 6805

JAN 14 1973

SECOND DIVISION

Docket No. 6616

2-WM-CM-'75

E. M. YOUHN

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

Parties to Dispute: ( System Federation No. 30, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Carmen)  
( Western Maryland Railway Company

Dispute: Claim of Employees:

- (1) That under the current agreement the Carrier improperly issued a one (1) day furlough notice in lieu of the required five (5) days on August 21, 1972 to Claimants C. L. Jaynes, C. D. Uhazie, B. R. Kurutz and P. Siesky.
- (2) That the Carrier be ordered to make whole the claimants in the amount of four (4) additional days at the appropriate rate of pay.

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 employees 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 appearance at hearing thereon.

On August 14, 1972 Carrier posted Bulletin Numbers 4 and 378 addressed "To Employees Concerned". These bulletins carried the names of five (5) employees whose positions were abolished effective August 21, 1972. One of the 5 employees listed in these bulletins was Mr. C. L. Jaynes who is one of the four (4) claimants herein.

Subsequently, on August 20, 1972 Jaynes and each of the other claimants herein received identical furlough forms from Carrier reading, in pertinent part, as follows: "Account of reduction in forces you are furloughed effective close of work August 21, 1972, from the services of the Western Maryland Railroad Company, subject to Furlough or Reduction in Force Rules."

The Organization on behalf of claimants contends that the foregoing constitutes a violation of Rule 23(2), which reads, in part, as follows:

"(2) Five working days' advance notice will be given to employees affected before the abolishment of positions or reduction in force, and list of employees affected will be furnished to the local committee. \*\*\*"

Carrier on the other hand, asserts that the notices of August 7, 1972 were sufficient for purposes of Rule 23(2), that no further furlough notice due to subsequent bumping, was required and that the Agreement was not violated thereby.

Each of the parties have presented Awards in support of their respective positions. We note that the weight of authority is not unanimous on this point, but we believe that the better reasoned precedent cases hold that the 5-day advance notice is not required for employees bumped by senior employees whose positions had been abolished after due notice to them. See Awards 2274, 3591, 4089, 5547.

The Organization contends that a Carrier cannot avoid the impact of a furlough and force reduction notice by abolishment, particularly where the Agreement, as here, specifically states that the notice requirement goes to abolishment or reduction in force. (Emphasis added) We cannot disagree with that proposition as an abstract principle, but the instant case is not such a situation as the Organization seeks to proscribe. This case is more akin to our earlier Awards wherein a senior employee, after due notice, has his job abolished and then bumps a junior man in the orderly exercise of seniority. The net effect is that the junior man is displaced in a chain reaction effect that may or may not lead back to the original abolishment. In these situations we cannot say that such secondarily affected employees were intended to be covered by the notice requirements before seniority can be exercised.

Turning to the merits of the instant case, the record shows that Claimants Uhazie, Kurutz and Siesky each were displaced by one of the senior employees whose jobs had been abolished pursuant to the proper notice given in Bulletins 4 and 378. As we have held on several occasions, notice of positions abolished is, in these circumstances, notice to other employees of their possible displacement by their seniors, if any, among the employees named in the bulletin. Award 2274, 3591, 4089. Accordingly, the claim as to Uhazie, Kurutz and Siesky cannot stand.

As for Claimant Jaynes, his name was on the abolishment notice of August 14, 1972, he was an employee directly affected and he thus received five working days' notice which is all the Agreement requires.

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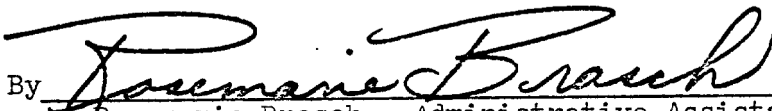
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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 6th day of January, 1975.