

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

(Brotherhood Railway Carmen of the United States
(and Canada, A.F.L. - C.I.O.
Parties to Dispute: (
(The Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

No. 1. That Carrier violated the terms of the controlling Agreement, specifically Rule 24 (b), when on the date of April 8, 1981 Carman, J. E. Forbeck's furlough went into effect without proper notification, as provided in the above mentioned rules, thus causing Claimant to be monetarily injured to the extent of four (4) working days.

No. 2. That accordingly, Carrier be ordered to compensate Claimant, J. E. Forbeck, Cumberland, Maryland, for actual time lost account this violation, four (4) days, at eight (8) hours' per day, at the straight time 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 employes involved in this dispute are respectively carrier and employes 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 Claimant, Mr. J. E. Forbeck, held a regular assignment as a Carman at the Carrier's Cumberland, Maryland facility. On April 2, 1981, notice was posted to impending job abolishments and the furlough of various employees, including Mr. Forbeck, in the Carman Craft, to be effective at the close of business April 8, 1981. The notice listed the names and positions of employees whose positions were to be abolished, the names of those employees who would be affected, and the effective date of the force reduction. The notice was posted on all bulletin boards on April 2, 1981. During the period March 27, 1981, through April 7, 1981, Mr. Forbeck was on his scheduled vacation. Mr. Forbeck reported for and worked on April 8, 1981 and was furloughed at the end of his shift on that day.

The Organization contends that Mr. Forbeck did not receive proper notification as required by Rule 25(b). It states that Claimant was on vacation on the date of April 2, 1981, at which time the notice of furlough was placed on the bulletin board by Carrier and that he did not return to the property until April 8, 1981. It states that Mr. Forbeck was for the first time on April 8, 1981, notified that he was an affected employee. The Organization states that he was contractually entitled to a "five working days' advance notice" under Rule 24(b), and not being afforded such notice, he was monetarily injured to the extent of four (4) days

compensated service. Further, the Organization contends that the arbitrary posting of this furlough notice on the bulletin board by Carrier caused mass confusion on account of the uncertain wording of the bulletining, naming employees who "stood" to be affected, not clearly stating that such employees would, in fact, be placed in furloughed status. The Organization contends that inasmuch as Mr. Forbeck was not on duty at the time notice was posted, he should have been afforded an individual notice so that he would be made aware of his imminent furlough.

The Carrier contends that Rule 24 clearly contemplates that five working days' advance notice of furlough would be carried out by bulletin as paragraph (j) of Rule 24 prescribed the form of such bulletin. The Carrier further contends that Rule 24 had been revised to the satisfaction of all parties, including the Carmen, to provide five working days' notice to employees affected by a force reduction, and that the rule providing for individual notice to affected employees was specifically removed from the rule with the full knowledge of all of the parties.

Rule 24 states in pertinent part:

".....

(b) (1) 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 using the STANDARD FORM shown below under paragraph (j)...

(j) Except in cases of emergency force reductions as covered by Section (b)(2) and (b)(3) of this rule, the following STANDARD FORM will be used to notify all concerned of position abolishments and force reductions.

STANDARD FORM TO BE USED WHEN
ABOLISHING POSITIONS AND REDUCING FORCES

Location

Date

To all Concerned:

The following position(s) will be abolished. Employees whose positions are abolished will be governed by the provisions of Rule 24:

Title of Position

Incumbent

Effective: _____

Time

Date

The following employ(s) stand to be affected as a result of force reduction:

cc: Local Committee

Supervisor in Charge"

The record shows that prior to the revised and reprinted Agreement of 1980, specific instruction existed in the prior Agreement to provide individual notices to each employee affected by a furlough and that such instructions were removed from the revised rule, which was in effect in April of 1981. We find that Rule 23(b), as revised, provides for 5 working days' advance notice when forces are reduced, and 23(j) provides that the following STANDARD FORM will be used to notify "all concerned" of force reductions while the STANDARD FORM is addressed "To all Concerned". We find that the language used by the parties in the revised rule clearly compels us to find that the parties intended to provide one standard and public type of notice to the employees affected by position abolishments and force reductions and that notice was a general notice to all employees concerned as opposed to individual notice. We have reviewed the notice posted at Cumberland, Maryland on April 2, 1981 and the notice is in full compliance with the Standard Form required by paragraph 24(j). We agree with the Organization as to the possibility of confusion in the use of the language "The following employees stand to be affected...", however such language is the exact language agreed to by the parties in the Standard Form. The Organization's position that an employee who is not on duty during the period a notice is posted should receive individual notice is a reasonable position. This Board has no authority to revise the revised rule, however, the parties themselves have the power to correct problems that become evident in a revised rule.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 9th day of May, 1984