

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISIONAward No. 10028  
Docket No. 10281-I  
2-BN-I-MA-'84

Parties to Dispute: ( Dennis C. Schneider  
( Burlington Northern Railroad Company

Dispute: Claim of Employees:

During the first half of calendar year 1981, Burlington Northern Railroad abolished a large number of jobs in the Hillyard and Parkwater Diesel and Car Shops, which are located at Spokane, Washington and in the Spokane Seniority District. The reasons given by the Carrier for these job abolishments were economic; specifically, declining rail traffic and revenues, and the need to increase operating efficiency. The Carrier also stated that these job abolishments were not related to the merger between Burlington Northern, Inc. and the St. Louis-San Francisco Railway Company, which was effective on November 21, 1980. It is the belief of the Petitioners, however, that work was transferred from the Hillyard and Parkwater Car and Diesel shops to other points in the system, and the Hillyard maintenance shops subsequently closed, as a result of corporate restructuring following the BN-Frisco merger and the formation of a holding company, and that the job abolishments were not due to an alleged decline in the Carrier's business. Therefore, the Petitioners claim status as "protected employees" under the BN-Frisco merger protection agreements between the Burlington Northern Railroad and the applicable unions, and also claim job protection rights guaranteed by the Washington Job Protection Agreement of May, 1936 as amended, the National Mediation Agreement of September 25, 1964 as amended, and the Staggers Rail Act of 1980 as amended, these rights having been denied the Petitioners by the Carrier. The Petitioners of this case hereby ask the National Railroad Adjustment Board to rule that the Carrier grant them the rights guaranteed in these agreements.

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 were given due notice of hearing thereon.

Claimant, Dennis C. Schneider, initiated the present claim on July 30, 1981, contending that he was entitled to benefits as a result of being adversely affected by the Burlington Northern-St. Louis-San Francisco Merger.

In progressing this matter, Claimant, in a letter dated November 13, 1981, advised the Senior Vice President of Operations that:

"Since I believe that my job was abolished because of transfer of work brought about by the BN-Frisco merger, I have applied for protection under the BN/Frisco-IAM agreement ...."

Thus the cause of action is one that is centered upon a determination of the provisions of that merger agreement. The BN-SL-SF merger agreement, dated December 5, 1979, applicable in this instance, contains the following provision:

"11. ARBITRATION OF DISPUTE - (a) In the event the railroad and its employees or their authorized representative cannot settle any dispute or controversy with respect to the interpretation, application or enforcement of any provision of this Agreement, except Section 12 of this Article I, within thirty (30) days after the dispute arises, it may be referred by either party to an arbitration committee ..."

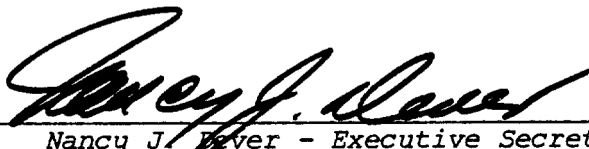
As has been enunciated in a number of Awards of this and other Division of this Board, when the contracting parties have provided a particular mechanism for the resolution of disputes arising under the terms of the contract, this Board is not the proper forum to resolve the dispute (Second Division Awards 7353, 7951, 8129; Third Division Awards 21283, 22475, 23193, 24628). Claim dismissed for lack of jurisdiction.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 8th day of August, 1984.