

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

PARTIES TO DISPUTE: (International Brotherhood of Firemen & Oilers  
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(St. Louis Southwestern Railway Company

STATEMENT OF CLAIM:

1. That in violation of the current agreement, Mr. Arthur Hogg, Jr., was furloughed at the end of shift January 14, 1987.

2. That other than members of the Firemen and Oilers (Machinists and Carmen) have been assigned and performed the duties that were previously performed by Mr. Arthur Hogg, Jr.

3. That Mr. Arthur Hogg, Jr. should immediately be returned to active service from his laid off status and that he be compensated for this continuing violation of the Agreement beginning January 14, 1987 with eight (8) hours per day at his regular applicable rate of pay, forty (40) hours a week until the work he was previously performing is once again assigned to him.

4. That the Carrier will reinstate retroactively, Mr. Hogg's entire Health and Welfare Plan, seniority and vacation benefits as provided for under the current agreement.

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 Organization claimed violation of Rule 1 of the Agreement when the Carrier assigned work previously performed by the Claimant to other crafts at its East St. Louis facility. This Rule is reproduced in pertinent part below:

"Rule 1: Scope

These rules govern the hours of service, working conditions, and rates of pay of the classes of employees shown below working in and about shops, power plant, train yards and engine terminals in the Maintenance of the Equipment Department:

1...

- 8. Engine Washer
- 9. Engine Wiper
- 10. Fire Builder
- 14. Hostler Attendant
- 16. Laborers - Car Department
- 17. Laborers - Cinder Pit
- 18. Laborers - Coal Chute
- 19. Laborers - Roundhouse
- 20. Laborers - Shop
- 21. Locomotive Supplymen
- 22. Lubricator Fillers
- 23. Lye Vat Attendants
- 24. Operators of Motor Trucks and Tractors
- 25. Operators of Truck Cranes
- 26. Sandhouse Men...

and all other work generally recognized on St. Louis Southwestern Railway Company as work belonging to the Employees covered by this agreement."

The Carrier furloughed the Claimant at its East St. Louis facility. The Organization claimed there was enough work available at this facility to justify the employment of the Claimant as a full-time laborer, and as such, the work contractually belongs to the Claimant. The Organization asked that the Claimant be returned to duty with all rights and benefits intact.

The Board notes that the IAM and Carmen were notified of the pendency of this dispute. Neither Organization claimed or disclaimed the work in question.

The Carrier contended that a time study showed that not enough work is available to justify the employment of a full-time laborer. This was due to a decline in business, which is economically justified. The Carrier further noted the Scope Rule is general in nature and the work in question is not performed on a systemwide basis and cites a number of Awards of this Division. In addition, the Carrier cited procedural arguments in that the Claim was amended and not submitted to the proper Carrier Officer.

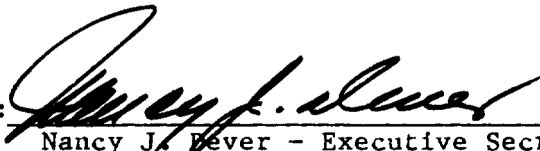
The Board finds the procedural arguments raised by the Carrier not to be persuasive under the circumstances of this case. With respect to the merits, the Board finds the Scope Rule to be of a general nature and while it must be given meaning it does not clearly and exclusively assign the work in question to members of the Organization. Likewise, the Organization has failed to bring forth sufficient evidence that it has historically performed this work exclusively on a systemwide basis (see Second Division Awards 9949 and 11151). Therefore, the Claim will be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Fever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of November 1988.