

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12655
Docket No. 12370
94-2-91-2-163

The Second Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division TCU
(CSX Transportation, Inc. (former Chesapeake
(and Ohio Railway Company)

STATEMENT OF CLAIM:

- "1. That the Chesapeake & Ohio Railroad Company (CSX Transportation, Inc.) (hereinafter 'carrier') violated the provisions of Rule 27 of the Shop Crafts Agreement between Transportation Communications International Union -- Carmen's Division and the Chesapeake & Ohio Railroad Company (CSX Transportation, Inc.) (revised June 1, 1969) and the service rights of Carman R. Golden (hereinafter 'claimant') when the carrier failed to give the claimant a proper five (5) working day notice prior to furloughing the claimant.
2. That accordingly, the claimant is entitled to be compensated for five (5) days pay, eight (8) hours each day at the applicable Carman's rate for the carrier's violation of the aforementioned Agreement Rule."

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 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 July 13, 1989, Carrier issued a notice at its Richmond, Virginia, facility abolishing three positions, effective July 13, 1989. These positions were temporarily abolished under Rule 27 (g), the emergency conditions Rule, as a result of a coal miner's strike. Claimant held one of these positions.

On July 20, 1989, Carrier issued another notice advising that the same three positions, plus one additional position, were being permanently abolished due to the continuing reduced volume of shipments caused by the coal miner's strike. Those employees, including the Claimant, who had already been furloughed temporarily, remained in furlough status until Carrier determined that shipments had returned to a level that justified the employees' return to service.

The Organization claims that Carrier violated Rule 27 and Article II of the April 24, 1970 Agreement by not recalling the temporarily furloughed employees after the emergency conditions allegedly no longer existed. In addition, the Organization contended that Carrier violated Claimant's service rights and the provisions of Rule 27 of the Agreement by failing to give Claimant a five working day notice prior to his furlough.

These same issues and arguments have been considered and rejected by this Board in Second Division Award 12633. Our findings in that case are dispositive of the instant matter, and therefore we must rule to deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 19th day of January 1994.