

Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12813
Docket No. 12698
95-2-93-2-100

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists and
(Aerospace Workers
(The Atchison, Topeka and Santa Fe Railway
(Company

STATEMENT OF CLAIM:

- "1. That the Atchison, Topeka, and Santa Fe Railway Company (hereinafter referred to as the Carrier) violated Appendix 7, Article I, Sections 1 through 12, of the Mediation Agreement, dated September 25, 1964 Agreement, for the following named employees:

| | |
|------------------|-------------------|
| V. W. Green | H. E. Lowell |
| N. M. Hall | K. E. Moore |
| S. C. Bigham | C. S. Smith |
| G. W. Walraen | Roger L. Johnson |
| D. R. Erb | K. G. Thiessen |
| R. D. Strickland | M. P. Pruitt, Jr. |
| K. W. Spann | R. K. Hermett |
| C. D. Russell | P. W. Feazell |
| J. W. Bridwell | S. K. Simms |
| R. W. Fobe | D. C. Hackler |

(hereinafter referred to as Claimants), whom represented machinists employed at Cleburne, Texas, prior to force reduction notices dated January 31, 1989, April 4, 1989, May 3, 1989 and June 6, 1989.

2. That accordingly, the Carrier be ordered to provide all Claimants the protective provisions of the September 25, 1964 Mediation Agreement, Appendix No. 7, Article I, Sections 1 through 12, of the current controlling agreement, Form 2642, standard, effective September 1, 1974."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 therein.

Parties to said dispute were given due notice of hearing thereon.

The dispute was still pending with SBA No. 570 when on June 1, 1993, the parties at the National Level agreed that disputes of this type which had not been assigned to and argued before a Referee at SBA No. 570 could "be withdrawn by either party at any time prior to August 1, 1993." The Agreement allowed that "a dispute withdrawn pursuant to this paragraph may be referred to any boards available under Section 3 of the RLA" (underscore ours for emphasis)

The Claimants in this case were furloughed on various dates from January 31, 1989 through May 2, 1989 from their positions at Cleburne, Texas. The issue is whether they are entitled to the protective provisions of the September 25, 1964 National Agreement.

Before addressing the substance of this claim, several observations are in order. First, a number of new materials and/or arguments have been presented to this Board, primarily by the Organization, which were not joined on the property. Therefore, these may not be considered in our deliberations. Second, much is made of the circumstances affecting the Carrier in 1987 (on the subject of another claim before this Board). We find from our review of the record properly before us that the 1987 events have no material effect upon this claim.

With respect to the substance of this claim, the Organization has not met its burden. The record basically supports the Carrier's position that the considerable work force reductions were the result of an economic decline in the Carrier's business during the 1989 period at issue. While it is true that at some point before June 1989, the decision was made to close the Cleburne, Texas, facility in late 1989, there is no evidence in this record that it was that action that caused the Claimants to be furloughed.

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AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 26th day of January 1995.