

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12847
Docket No. 12745
95-2-93-2-170

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

PARTIES TO DISPUTE: (International Brotherhood of Firemen
(and Oilers
(
(The Atchison, Topeka and Santa Fe
(Railway Company

STATEMENT OF CLAIM:

- "1. That the Atchison, Topeka, and Santa Fe Railway Company violated Article I, Section 4, of the September 25, 1964 Agreement when they failed to give at least sixty (60) (ninety (90) days in cases that will require a change of employees's residence) notice of the abolishment of jobs in Cleburne, Texas to the following Firemen and Oilers:

W.F. Boyd	R.L. Hill	R.L. Richardson
E.E. Coate	C.L. Howard	J.B. Thompson
T.R. Earl	D.G. Lathers	J.L. Trussell
B.E. Gant	G.A. Mesecher	

2. That the Atchison, Topeka, and Santa Fe Railway Company further violated the September 25, 1964 Agreement when they failed to provide protective benefits to the above-listed Firemen and Oilers who were deprived of employment as stated in one or more of the reasons set out in Article I, Sections 1, 2 and 3 of the September 25, 1964 Agreement.
3. That, accordingly, the Atchison, Topeka, and Santa Fe Railway Company be ordered to make whole the above-named Claimants by payment for time lost as a result of the abbreviated furlough notices; and further, that the Atchison, Topeka, and Santa Fe Railway Company be ordered to apply the protective benefits set forth in Article I, Sections 5 through 11, as applicable, of the September 25, 1964 Agreement, as amended."

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 herein.

Parties to said dispute waived right of appearance at 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agreed that disputes of this type which had not been assigned to and argued before a Referee at SBA No. 570 could "be withdrawn by either party at any time prior to August 1, 1993." The Agreement allowed that "a dispute withdrawn pursuant to this paragraph may be referred to any boards available under Section 3 of the RLA" (underscore ours for emphasis)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 May 31, 1989 while employed at the Carrier's Cleburne, Texas, facility. The basic claim of the Organization is that the Claimants were deprived of protection conveyed by Article I of the September 25, 1964 Agreement ("Agreement"). It asserts that the Claimants' furloughs were the result of the Carrier's decision to transfer their work to Topeka, Kansas, and San Bernadino, California, and the subsequent actions to achieve that goal and later abandonment of the Cleburne facility.

When denying the claims, the Carrier argued that what occurred came about basically because of economic reasons and the normal workload fluctuation that impact on employment.

The Board, after careful review of all the evidence, agrees with the Carrier. While it is understandable from our review of the many events and circumstances relied upon by the Organization why it concludes that work was transferred "in anticipation" of the closure of Cleburne, the evidence does not support a nexus. The Agreement provides that protective benefits are provided only when an operational change listed in Article I of that Agreement has occurred. We do not find such a condition here.

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AWARD

Claim denied.

O R D E R

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 24th day of February 1995.