

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12947
Docket No. 12787
95-2-93-2-191

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

(International Brotherhood of Fireman
(and Oilers
PARTIES TO DISPUTE: (
(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) days notice of the abolishment of jobs in La Junta, Colorado to the following Firemen and Oilers:
- | | |
|---------------|---------------|
| W. R. Jones | J. R. Hazlett |
| J. L. Collins | R. J. Harper |
2. That the Atchison, Topeka and Santa Fe Railway Company further violated the September 25, 1964 Agreement when it failed to provide protective benefits to the above-listed Firemen and Oilers who were deprived of employment as a result of one or more changes in operation as stated 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 notice; and, further, that the Atchison, Topeka and Santa Fe Railway Company be ordered to apply the protective benefits set forth in Article I 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.

This case was originally submitted to SBA 570. In accordance with the June 1, 1993 Letter of Understanding between the Organization and the National Railway Labor Conference the case was withdrawn from SBA 570 and submitted to this Board.

On December 14, 1987 Carrier reduced the number of laborers' positions at La Junta, Colorado from eight to four. As a result, the claimants were furloughed. A claim was filed on January 20, 1988 requesting the protective benefits of the September 25, 1964 Agreement. It is the position of the Organization that the claimants were deprived of employment as a result of a transfer of work and the abandonment or consolidation of facilities.

The Organization has failed in its burden to provide evidence of any transfer of work or abandonment of facilities. It is obvious with four laborers' positions remaining, that the facility at La Junta was not abandoned. Its position that the fueling of locomotives was transferred to Kansas City and other points is unsupported. To claim that locomotives need to be fueled at La Junta whether they need fuel or not is not a transfer or work. The fact that the Carrier ceased fueling locomotives at La Junta unless they need at least 2,000 gallons of fuel does not prove a transfer of work. There is no denial that fueling still exists at La Junta.

Based on the facts presented in this case, there is no basis to sustain the claim.

AWARD

Claim denied.

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ORDER

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

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 23rd day of August 1995.