

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12963
Docket No. 12754
95-2-93-2-111

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists
(and Aerospace Workers
(
(CSX Transportation, Inc. (former
(Baltimore and Ohio Railroad Company)

STATEMENT OF CLAIM:

"1. That under the Agreement of September 25, 1964 the Carrier improperly dealt with and thereby damaged Machinists J. T. Lents and J. Ham. The Carrier damaged the aforementioned Claimants when the Carrier abandoned and discontinued operations and services at their locomotive facilities located at East St. Louis, Illinois and transferred all remaining work to the Carrier's Queensgate facility at Cincinnati, Ohio, thereby depriving the Claimants the protective benefits to which they are entitled to and provided for in Article I of the September 25, 1964 Agreement as amended.

2. That the Carrier violated Article I, Section 4 of the September 25, 1964 Agreement when it failed to give sixty (60) days' (ninety (90) days in cases that will require a change of employee's residence) written notice of the job abolishment and furlough of the employees named in Part (1) hereinabove, caused by its abandonment of its East St. Louis facilities and transfer of any and all remaining work to other points on The Baltimore and Ohio Railroad Company.

(1) Carrier be ordered to compensate the Claimants their normal earnings for the fifty-five (55) day period that the required sixty (60) day notice of their job abolishment and furlough was abbreviated.

(2) That the Carrier be ordered to afford the protective benefits set forth in Article 1, Sections 5 through 10, of the September 25, 1964 Agreement to the Claimants involved in this dispute."

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 Carrier maintained a locomotive ready track and roundhouse at East St. Louis, Illinois. On October 17, 1986, the Machinist positions held by the Claimants were abolished. As stated by the Organization, "all work in connection with locomotive inspections, running repair, and testing" was discontinued at the East St. Louis facility. Employees in other crafts were simultaneously notified of the abolishment of their positions. The Organization cites an internal Carrier memorandum summarizing the change at East St. Louis, as follows:

"... Effective Friday Oct 24th the roundhouse at East St. Louis will be closed completely. There will not be any servicing or repairing of locomotives at East St. Louis."

The memorandum continues by giving detailed instructions as to operations in view of the shutdown at East St. Louis.

The Organization notes that "Carrier trains no longer stop at East St. Louis because of the Carrier's run-through concept" -- that is, locomotives are equipped and serviced to pass through East St. Louis without the necessity of servicing at that point.

In support of its position as to the Carrier's strategy, the Organization points to an article in Progressive Railroading in September 1984, in which a Carrier official outlines, among other aspects, steps to eliminate "in-between stations engaged in unnecessary topping off operations" and also the construction of "modern locomotive servicing and running repair shops" at Baltimore, Cincinnati, and elsewhere.

The Organization argues that the Claimants are entitled to the 60-day notice and protective benefits of the September 25, 1964 Agreement in view of the Carrier's "abandonment" of the East St. Louis locomotive service facility.

The Carrier denies that the East St. Louis facility has been "abandoned," since at least some of the activities there continue. A Machinist and two Carmen were retained for such duties. After the retirement of the Machinist more than two years' after the abolishment of the Claimants' positions, the Carmen positions continued to perform the remaining work.

The 1984 Carrier article cited by the Organization clearly outlines the changes toward more efficient operation. However, the article obviously could not address the specific facts occurring two years later at East St. Louis, as discussed herein.

Having thus denied a complete abandonment of the activities at East St. Louis, the Carrier defends its position on the severe decline in work available in 1986, leading to major reductions in personnel at East St. Louis and elsewhere in the Carrier's system. In addition, the Carrier provided statistics as to the substantial reduction of locomotive inspections and servicing at East St. Louis beginning in 1985 and extending through 1986.

The continuing working presence of a few employees at East St. Louis argues against the concept of "abandonment." There is also no positive showing of "transfer" of work. The fact that equipment is now able to run through East St. Louis, having been adequately serviced and equipped at the originating point, does indeed represent elimination of work. This cannot be found to be considered "transfer" of work. Thus, the Organization has not demonstrated a change in operations meeting the criteria of Article I, Section 2 of the September 25, 1964 Agreement. On the other hand, the Carrier has shown substantial decline in business justifying its widespread force reduction before and after the abolishment of the Claimant's positions.

With this conclusion, it is unnecessary for the Board to consider the parties' arguments as to the timeliness of the claim.

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.

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 1st day of November 1995.