

Award No. 598

Docket No. 597

2-DL&W-FT-'41

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 78, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (FEDERATED TRADES)**

**THE DELAWARE, LACKAWANNA & WESTERN
RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES: That machinists and helpers, boiler-makers and helpers, sheet metal workers and electrical workers employed in the Scranton and Kingston enginehouses were furloughed on April 30, 1940, in violation of Rule 22 of current agreement, and that the forty-five (45) men involved be compensated for all time lost.

EMPLOYEES' STATEMENT OF FACTS: That prior to and subsequent to the effective date of the current agreement in the motive power and equipment department, when it was necessary to reduce expenses, the hours were reduced to forty (40) and below forty per week before reducing the force.

That on April 30, 1940, thirty three (33) machinists, five (5) machinist helpers, one (1) boilermaker, one (1) boilermaker helper, one (1) sheet metal worker, four (4) electrical workers, employed at the Scranton and Kingston enginehouses were furloughed while said enginehouse employes were working forty-eight (48) hours per week and before the hours were reduced to forty (40) per week.

POSITION OF EMPLOYEES: Rule 22 of the current agreement was written in its present form, agreed to by management and the general committee, for the purpose of providing a method to protect the welfare of both the management and the employes in a manner of reducing the hours before reducing the force when it is necessary for the management to reduce their expenses. Such policy in force under the previous agreement and in force when the current agreement was signed, and made effective, November 1, 1935. Rule 22 in part quoted below.

Rule 22. "When it becomes necessary to reduce expenses, the hours may be reduced to forty (40) per week before reducing the force, (Except at Locomotive Back Shops and Car Program shops, the hours may be further reduced by agreement with the General Committee of employes)."

It is the claim of the employes, first, that when it was necessary to reduce expenses for the month of May, 1940, and by arbitrarily reducing the force at the Scranton and Kingston enginehouse effective May 1, 1940 despite the numerous requests made by the general committee of the System Federation No. 78 upon request of the employes under their jurisdiction, to the carrier requesting that if and when it became necessary to reduce expenses, the hours be reduced to forty (40) per week before the force is reduced (as provided

mutually agreed upon by Management and General Committee of Employees.

POSITION OF CARRIER: In the above reductions in forces, carrier gave four days' notice to the men affected and furnished lists to the local committees as provided in Rule 22.

Petitioner's claim, as the carrier understands it, is based on the first sentence of Rule 22 which reads in part as follows:

"When it becomes necessary to reduce expenses, the hours may be reduced to forty (40) per week before reducing the force."

Nothing in Rule 22 compels the carrier to reduce hours before reducing forces, for Rule 22 states that "hours may be reduced to forty (40) per week before reducing forces" (underscoring by carrier) and not that hours must be reduced. It is discretionary with the carrier whether it will reduce expenses by reducing hours to forty (40) per week or by reducing the forces. This choice was given to the carrier by Rule 22, and the rule is so clear and unambiguous that there can be no doubt on this point. This Board has so held in its findings in Docket No. 198, Award No. 183, rendered November 18, 1937, as follows:

"When it becomes necessary to reduce expenses, the hours may be reduced to forty (40) per week before the force is reduced. This should be sufficiently explanatory and should require no elaboration."
(Underscoring carrier's.)

Carrier wishes to call the Board's attention to the fact that in its statement of claim, petitioner claims compensation for time lost by forty-five men. Only twenty-four men were furloughed, twenty-one from Scranton enginehouse and three from Kingston enginehouse.

The above facts indicate that the twenty-four men were properly furloughed and the provisions of Rule 22 strictly complied with. The claim should be declined.

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.

The parties to said dispute were given due notice of hearing thereon.

The rules of agreement do not support the claim.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 26th day of March, 1941.