

Award No. 2017

Docket No. 1914

2-IC-FO-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee David R. Douglass when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Firemen & Oilers)**

ILLINOIS CENTRAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement the names of the following laborers were improperly removed from the seniority roster at the Paducah Shop, Paducah, Kentucky

M. P. Cutrer
Leonard Wilson
Nathan Settle
C. R. Armstrong
A. E. Menser
E. M. Armstrong
John Adams
R. I. Estes
G. P. Powers
E. M. Stice
James Broady
S. A. Lovelace
E. Goodwin

C. T. Croley
Joe Reagan
D. M. Arnold
L. E. Moore
Myra Fralech
J. D. McCorry
Frank Heitt
L. W. Reid
Isabel Roser
J. W. Ray
J. J. Sills
C. E. Harper
H. A. Short

2. That accordingly the Carrier be ordered to:

- a) Restore the names of the above mentioned employes to the seniority roster.
- b) Compensate the aforesaid employes for any time lost and any other damages incurred, such as loss of vacation compensation.

JOINT STATEMENT OF FACTS: On August 13, 1954, reduction of forces was made at Paducah Shops, Paducah, Kentucky, at which time the claimants were furloughed. The claimants filed their addresses with the proper

date furloughed. Employees' contention was expressed as follows by General Chairman May in his letter of February 11, 1955:

"These employees had 15 days after August 13, 1954, in which to file this address. This 15 day period ended on August 27, 1954; 90 days from this date of August 27th, would be November 27th. Therefore, these employees did renew their address before the 90 days had expired."

The employees contend that regardless of which day an employee first files his name and address within fifteen days after furlough, the 90-day renewal period does not begin to run until fifteen days after the furlough date. The carrier contends that Rule 29 is not subject to that interpretation. It is the position of the carrier that as soon as name and address are first filed within fifteen days after furlough, the 90-day renewal period immediately begins to run. All the claimants filed their names and addresses on the date they were furloughed, August 13, 1954, and it was then their responsibility under Rule 29 to "renew same each ninety (90) days" if they desired to retain their seniority rights. All the claimants failed to do so, and there is no basis for employees' contention that these claimants should have been given 105 days, rather 90, in which to renew their names and addresses.

It has been contended that certain unspecified employees among the claimants filed application to the Railroad Retirement Board for unemployment compensation; that such applications were filed within ninety days of August 13, 1954, and contained the applicants' names and addresses, and that such applications were in effective compliance with Rule 29. During the period in question some 225 furloughed employees of all crafts at Paducah Shop were registering for unemployment benefits. The claim form for unemployment is sent to the Railroad Retirement Board in Cleveland, Ohio, and the carrier retains no copy, and has no record of which employees may or may not have filed for unemployment compensation. Certain of the claimants may have registered for unemployment compensation at points other than Paducah. In any event, filing for benefits from the Railroad Retirement Board has no connection with the purposes of Rule 29. It is the position of the carrier that registration with the Railroad Retirement Board is immaterial and has no bearing on this dispute.

The carrier contends that the claimants lost their seniority rights through their failure to comply with Rule 29 of the agreement. There is no basis for the claim, and it should be denied.

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.

The parties to said dispute waived right of appearance at hearing thereon.

Rule 29 of the effective agreement provides in part that:

"Employees laid off account force reduction desiring to retain their seniority rights must within fifteen (15) days file their names and addresses in writing with their employing officer and renew same each ninety (90) days. * * *"

Claimants renewed their names and addresses within ninety (90) days following the 15th day of the force reduction. They did not renew same within ninety (90) days of the date of the original filing.

There is no concrete showing of interpretation of the rule involved. It appears to us that the rule is clear in that a renewal must be made within ninety (90) days of the date of the first filing.

The rule is subject to the interpretation placed upon it by the organization, although we deem it to be an improper interpretation.

Considering the fact that the rule was subject to the interpretation so placed by the employes, and further considering the fact that the violation was technical in nature and not deliberate, and finally considering the gravity of the results of the misinterpretation, we believe that an injustice would be done if we were to deny this claim and deprive these employes of their seniority rights for a bona fide mistake in interpretation under the existing circumstances.

This award is meant to cover the facts and circumstances of this particular case only.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 16th day of November, 1955.