

Award No. 2690

Docket No. 2482

2-CRR-FT-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Thomas C. Begley when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 44, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Federated Trades)**

CLINCHFIELD RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the applicable agreements the Carrier improperly denied certain employes, represented by System Federation No. 44, eight (8) hours' pay at the pro rata rate for the December 25, 1955, and January 1, 1956, Holidays.

2. That, accordingly, the Carrier be ordered to compensate these employes in an amount of eight (8) hours at the pro rata rate for each of the aforesaid holidays.

EMPLOYEES' STATEMENT OF FACTS: The claimants are regularly assigned employes of the machinist, electrician, sheet metal worker and carmen crafts on the Clinchfield Railroad Company, hereinafter referred to as the carrier, at Erwin, Tennessee. The claimants' names are shown on bulletins listed in subsequent paragraphs as Exhibits to this submission.

Under date of December 20, 1955, the carrier posted a bulletin, copy submitted herewith and identified as Exhibit A, over the signature of the superintendent of shops, Mr. O. E. Bergendahl, notifying the named employes in the locomotive department that they will be cut off effective 7:00 A.M. December 24, 1955, until further notice.

Also under date of December 20, 1955, the carrier posted a bulletin, copy submitted herewith and identified as Exhibit B, consisting of three (3) pages, over the signature of the general car foreman, Mr. E. R. Mitchell, notifying the named employes that the shop facilities of the car department will be closed and forces reduced effective at 7:00 A.M. Saturday, December 24, 1955, until further notice.

were not paid for prior to May 1, 1954. In the force reductions covered by this statement prior to May 1, 1954, totaling 19 reductions, holidays occurred during 10 force reductions and did not occur during 9 force reductions. Since May 1, 1954, there have been 7 force reductions. Holidays occurred during 5 reductions and did not occur during 2 reductions.

During the entire period the same general pattern is shown. That pattern reveals that force reductions throughout the years and continuing to the present time have not been indiscriminately made and that the occurrence of holidays during periods of force reduction has been incidental—not used either before May 1, 1954, or subsequent thereto as a consideration in the timing of force reductions.

CONCLUSION

We have shown that the same consideration prompted the force reduction of December 24, 1955, that has prompted every force reduction made in nine years prior thereto. While we have not burdened the record with the history of force reductions prior to November 23, 1946, we affirmatively state that the same principle has prevailed throughout previous years. Such is in keeping with sound business policies and prudent management.

There has been, therefore, no violation of the agreement and it naturally follows that no employee has been improperly denied pay on December 25, 1955, and January 1, 1956.

We submit that this claim is wholly without merit and should, in all respects, be denied, and we respectfully request this Board to so find.

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 were given due notice of hearing thereon.

The employees state that the carrier closed down all heavy repair facilities, Locomotive and Car Departments, from 7:00 a.m., December 24, 1955 to 7:00 a.m., January 3, 1956, that the sole purpose of the reduction of the force for only four (4) regularly assigned workdays coupled together with the denial of the claims for holiday pay on Christmas and New Years was to defeat the holiday provision of Article II, Section I of the August 21, 1954 Agreement, and a letter of understanding addressed to the Employees' National Conference Committee dated May 20, 1955 which reads in part as follows:

"On our lines there have not been any indiscriminate reductions in force for the sole purpose of defeating holiday pay and the occurrence of holidays will not be used as a consideration in the timing of lay-offs or furloughs so as to deny employees the opportunity to qualify for holiday pay."

The carrier states that force reductions are made and have always been made according to volume of traffic anticipated and the number of employes required to perform service.

The carrier further states that the volume of business that had been anticipated for the period in question, based on past experience, showed a decline in the movement of traffic during the latter part of December, 1955 and the sole purpose of making the force reduction was to bring the expense of operation in line with anticipated revenues.

The carrier admits that a decline in the movement of traffic during the period in question did not occur and it posted a notice, on December 30, 1955, recalling the force to report for duty on January 3, 1956.

The Board finds, from a careful reading of the submissions and the oral arguments of the parties, that the employes have failed in their proof to show that the carrier, when it reduced the force on December 24, 1955, did so for the sole purpose of denying its employes holiday pay. Rather, the carrier relied on the information given by its statistical department and did believe that there would be a reduction in tonnage in the latter part of December, 1955. Therefore this claim must be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of December, 1957.