

Award No. 3299
Docket No. 3050
2-SLSF-MA-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEREATION NO. 22, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.—C. I. O. (Machinists)

ST. LOUIS-SAN FRANCISCO RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the carrier violated the Controlling Agreement, Rule 27, when they improperly furloughed the following named employes without regard to their seniority standing on the consolidated roster at Springfield, Missouri, effective March 29, 1957:

Machinist

H. W. Jackson
F. M. Hart
F. K. Davis
J. R. Thompson
T. J. Faucett
G. P. Dillard
J. J. Prugger
Lester Peck
John Goodrich
Clarence Seamon
D. G. Frankenfield
N. D. Anderson
J. E. Divan
F. A. Oetting
P. V. Whitehead
E. L. Moon
Leslie Bunch
W. H. Yount

Machinist

L. D. Jones
Chas. E. Rippee
W. H. Burks
Clyde H. Hart
J. A. Huesgen
Ralph Ege
Jack Ash

Machinist Helpers

R. K. Burger
N. Hughes
J. W. Altie
C. Pennell
K. P. Duvall
Frank Gottes
Jesse Calhoun
W. N. Plank
P. A. Denney

and all such other employes who were improperly furloughed in accordance with their seniority at later dated.

2. Because of this rule violation and improper furlough of the above named employes and others that they be compensated for all time lost as a result of such improper furlough.

EMPLOYEES' STATEMENT OF FACTS: The carrier reduced its forces in the shops at Springfield, Missouri; said reduction was effective March 29, 1957. The forces were not reduced per Rule 27 of the current agreement and the consolidated seniority roster for employes in the shops at Springfield, especially employes at the Reclamation Plant — said roster is submitted herewith as Exhibit No. A.

The carrier contends that Mediation Agreement A-3929 exempted these employes from the reduction in force; said agreement is to be found on pages 75, 76 and 77 of the current agreement.

The employes contend that Mediation Agreement A-3929 in no way whatever exempted employes in the Reclamation Plant from coming in under Rule 27 of the current agreement and that it only pegged employes of the Reclamation Plant to their jobs under the conditions enumerated in said agreement so long as they had sufficient seniority to enable them to work and when the carrier by-passed these employes and laid off senior employes they violated the current agreement.

This dispute has been handled with the highest designated officer of the carrier in conference and the claim was denied.

After some delay a conference was arranged with Mr. T. P. Deaton, director of labor relations, on January 7, 1958. Present at that conference was Grand Lodge Representative Edward W. Wiesner, who was a party to the negotiations that resulted in Mediation Agreement A-3929. The results of this conference is shown in our Exhibit B. The closing paragraph of this Exhibit reveals an interpretation of this agreement was desired by the carrier.

Both sides submitted their position as to what they understood the Mediation Agreement A-3829 covered.

Under date of March 28, 1958, the executive secretary of the National Mediation Board, on behalf of the Mediation Board, replied — copy of said letter is submitted as Exhibit C. It is to be noted that the Mediation Board states that this case involves a rule, the Reduction in Force, Rule 27, which is not mentioned in or affected by Mediation Agreement made in Case A-3929, on May 1, 1952.

Due to the delay in handling this dispute, the carrier was asked to extend the time limit under the date of April 7, 1958.

The carrier's reply thereto is our Exhibit D and the employes acceptance of such extension to June 30, 1958, is our Exhibit E.

POSITION OF EMPLOYEES: The record in this case reveals that Mediation Agreement A-3929 in no way whatever excepted the employes of the Reclamation Plant from Rule 27 of the current agreement and when the carrier reduced forces pursuant to said rule and did not reduce the forces at Springfield, Missouri, in accordance with their seniority roster standing, they violated the agreement and the claim should be sustained.

sult of the exercise of seniority displacement rights were reduced to the furloughed list.

With respect to Part 2 of employees' statement of claim, this submission sets forth all the names of the claimants who were considered when this dispute was being handled on the property and any claim in behalf of other unidentified claimants is an improper claim and not properly before this Division.

In conclusion, this carrier and System Federation No. 22 (Sheet Metal Workers) entered into an agreement February 9, 1954 to consolidate the seniority of employees in the sheet metal workers' craft at North Springfield Car, Springfield Diesel Shop, Springfield Locomotive Shop, and the Reclamation Plant. Copies of that agreement are on file with the Secretary of this Division, and by reference thereto is made a part hereof. There is a distinct similarity between the aforesaid Sheet Metal Workers' Agreement and Mediation Agreement in NMB Case A-3929. The Sheet Metal Workers' Agreement also granted certain prior rights to the Reclamation Plant employees. Both the agreements also used the term "prior rights", and nowhere is the word "peg", as referred to by the I.A.M. Grand Lodge representative, used in either agreement. The sheet metal workers' craft has approached the carrier to amend its agreement through the customary process but there has been no complaint, as here, that carrier's actions taken under that agreement has violated or violates its provisions.

The allegation that the manner in which Mediation Agreement A-3929 has heretofore been interpreted and applied grants to any employees super-seniority is denied.

The facts of record do not support the theory upon which this claim has been presented by the organization and this Division is requested 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.

Parties to said dispute were given due notice of hearing thereon.

In this docket we are called upon to interpret the effect of Mediation Agreement A-3929, which the parties entered into May 1, 1952 when seniority rosters were merged at Springfield, Missouri. The particular question is whether or not employees of the reclamation plant must be cut off in their turn when the force is reduced.

The organization urges that the Mediation Agreement makes no mention of Rule 27 and was intended only to modify Rule 30. To which the carrier replies that Rule 27 itself makes specific mention of Rule 30 and hence that the "RC" exception contained in the Mediation Agreement relates back through Rule 30 to reduction in force Rule 27.

We are of the opinion that Item 6 of Mediation Agreement A-3929 holds the key to this dispute. Paraphrased, the rule states:

"6. In the exercise of seniority from the Reclamation Plant to other locations . . . and from other . . . locations . . . to the Reclamation Plant, it is understood following paragraph in Rule 30 . . . will apply to . . . displacement as well as filling vacancies or new positions. Seniority as mentioned in **any** of the rules . . . will govern . . ."

It thus appears clear that only Section 1 of Rule 30 was changed by the mediation agreement, and when the parties agreed that seniority mentioned in **any** rule would govern in moving into or out of the Reclamation Plant, that they intended the merged seniority roster to control unless specifically excepted. We find no such exception.

AWARD

The claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 29th day of July 1959.