

Award No. 4109
Docket No. 4274-I
2-L&N-I-'63

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

R. WILKINSON, MACHINIST
LOUISVILLE AND NASHVILLE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

Two days' pay (May 13 and 14) due to my job being abolished while on vacation (April 21 to May 10, 1961) with off-days being May 11 and 12.

EMPLOYEE'S STATEMENT OF FACTS: While on my vacation my job was abolished, and upon reporting for work was notified I had been awarded job to work Thursday thru Monday, Roundhouse, 3:00 P. M. to 11:00 P. M. on Thursday; 11:00 P. M. to 7:00 A. M. Friday, Saturday, Sunday and Monday nights. My regular off-days on job before vacation was Thursday and Friday as job worked from 7:00 A. M. to 3:30 P. M. Saturday through Wednesday at Car Shop. The only change made on this job was from 7:00 A. M. to 3:00 P. M. Saturday and Sunday at Car Shop; 3:00 P. M. to 11:00 P. M., Monday, Tuesday and Wednesday at Roundhouse.

Reporting for work on Friday, May 12, I was told by local chairman I had been awarded 11:00 P. M. to 7:00 A. M. job at roundhouse. I requested to place my roll for job that was on at car shop 7:00 A. M. to 3:00 P. M. Saturday and Sunday as I had seniority over junior employee who was awarded this job, but was told by local chairman I could not go to work until Monday, May 15. I refused to work Saturday and Sunday nights from 11:00 P. M. to 7:00 A. M. and am claiming pay for these two days as master mechanic went along with local chairman.

I think according to rules of the agreement book, I was not officially notified and was denied the right to exercise my seniority. I quote below these rules upon which I am basing my claim:

"RULE 18(g) An employee absent on account of sickness, suspension from service or leave of absence, will have the right to return to the position he left, or will have the right to displace junior employees on positions bulletined during such absence, provided application is made within 4 days after returning to work. Any employee thus displaced will have 4 days in which to exercise his seniority.

RULE 26(b) If force is reduced, 4 calendar days notice will be given the men affected by bulletin before the reduction is made.

does not involve claimant being denied his rights to exercise his seniority, but his refusal to work the "un-bid-in" bulletin job on May 13 and 14, based on disagreement as to the manner in which the case was handled. It was management's desire to work Mr. Wilkinson on May 13 and 14, the days for which he now makes claim but he refused to do so at the time.

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 waived right of appearance at hearing thereon.

The claimant contends that while on vacation (April 21 to May 10, 1961) his position was abolished and he was not advised of this action until after he returned to work on May 12 following his vacation.

The record shows that the carrier and the local committee (of claimant's organization), because of a force adjustment, did assign the claimant to a vacant position until such time as he could change to a position which his seniority would allow under Rule 26(d). The action of the carrier and the local committee would have allowed claimant to work May 11, 12, 13, and 14. The claimant admits that he refused to work May 13 and 14, the dates claimed in the instant dispute. Therefore, the claimant alone must accept full responsibility for such loss incurred.

Since we have denied the instant claim on its merits, it becomes unnecessary to rule on the carrier's procedural objections, and we express no opinion on the validity thereof.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 4th day of February, 1963.