



Award No. 5315

Docket No. 5027

2-SOU-CM-'67

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 21, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)**

SOUTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the controlling Agreement by furloughing Carman H. A. Henegar, et. al., Hayne Car Shop, Spartanburg, South Carolina, at the close of work on November 30, 1964, without a five working days notice.

2. That the Carrier be ordered to discontinue said violation and pay Carmen H. A. Henegar, M. N. Gowens, R.W. Cannon, F.L. Tillotson, M.C. McCall, E. E. Pollard, E. W. Lindsey, R. X. Smith, J. R. Brown, C. J. Sellars, J. C. Stuart, R. L. Godwin, E. M. Smith, W. L. Ashcraft, R. P. Jones, J. B. Brown, H. M. Frazier, B. C. Mattison, J. C. Lee, Jr., E. R. Jennings, H. E. Gause, A. L. Lee, R. L. Westbrook, Frank McElrath, C. R. Quinton, J. T. Earnhart, J. J. Gregory, H. A. Frazier, R. J. Clayton, J. B. Lane, N. D. Sheehan, J. W. Blume, R. L. McCoy, C. E. Wilson, J. F. Petty, C. B. High, Jr., R. M. Johnson, L. G. Gilleland, W. R. Weathers, Jr., E. W. Lewis, Jr., H. W. Henderson, S. E. Pollard, J. A. Grubb, M. L. Wessinger, H. A. Vickers, M. V. Brown, J. B. Mayes, C. A. Braziel, W. A. Black, R. H. Taylor, W. E. Shirah, Jr., C. W. Wall, A. H. Campsen, J. D. Cannon, J. F. Pressley, S. L. Schrimsher, H. E. Vann, J. W. Mattison, S. G. Shell, W. A. Hinson, J. H. Jones, G. E. Ford, W. P. Allen, L. R. Lovett, A. C. Still, J. A. Lewis, P. E. Wessinger, E. C. McCraw, R. L. McKee, R. L. Speer, Floyd Loflin, W. H. Sanders, P. F. Lister, J. B. Van Patton, E. L. Metze, O. A. Smith, W. C. Davis, S. R. West, T. W. Shields, Talmage Stevens, H. R. Hutchins, D. W. McElveen, H. J. Crawford, B. H. Lamb, J. B. Pinson, B. C. Fink, C. Honneycutt, H. A. Allen, S. F. Metze, C. R. Heatherly, M. Edwards, J. L. Lamb, B. T. Raines, L. B. McDougale, V. E. Beaver, J. H. Ballinger, J. W. Burnett, W. E. Moody, J. R. Thornton, George Lewis, C. L. Robinson, W. C. Eubanks, C. C. Cantrell, P. E. Lawson, W. W. Garrett, G. D. West, W. H. Orr, D. O. Davis, O. A. Quinn, T. E. Vinyard, J. H. Peeler, S. P. Price, R. E. Cason, Jack Senn, R. H. Sellers, A. W. Gunter, W. D. Sowers, A. J. Cone, M. P. Duggar, G. W. Stephens, W. R. Sanders, E. P. Tidwell, R. L. Miller, P. L. Giles, J. A. Friday, W. B.

Taylor, C. W. Bishop, T. F. Puckett, C. E. Cassady, R. L. Cooper, G. W. Bagwell, A. Walton, R. J. Bailey, F. A. Wilson, R. A. Cannon, W. S. Ellisor, L. M. Quinn, C. J. Honeycutt, P. Bright, F. M. Crow, S. W. Rose, J. B. McDougale, A. C. McAbee, J. E. McAbee, C. C. Taylor, J. W. Peeler, R. E. McBride, J. W. Cooley, R. E. Youngblood, L. W. Graham, W. S. Sheehan, E. M. Green, J. E. McDowell, L. O. Blalock, H. A. Devine, N. J. Brady, J. H. Holden, J. A. Poteat, C. E. Cox, H. L. Jones, J. C. Snow, H. O. Daniels, H. C. Satterfield, W. J. Rimer, I. L. Proffitt, Jr., J. F. Thompson, R. E. Hammond, H. R. Christopher, C. B. Humphries, T. J. Rollina, Carman Helper, I. W. Owens, Painters J. A. Rogers, G. E. Kerr, C. L. Hines, C. T. Bishop, P. H. Foster, Painter Helper R. D. Giles and Upholsters P. L. Lanford, J. R. Pack and L. C. Patterson, Hayne Car Shop, Spartanburg, South Carolina, eight (8) hours each at the pro rata rate of pay for failure to give said employees a five working days' notice before furloughing.

EMPLOYEES' STATEMENT OF FACTS: Carman H. A. Henegar, et. al., hereinafter referred to as Claimants, were employed by the Southern Railway System, hereinafter referred to as Carrier, at Hayne Car Shop, Spartanburg, South Carolina.

On November 23, 1964 Bulletin No. 642 of same date was posted at approximately 5:00 P.M., after quitting time of the aforesaid employees, furloughing them at the close of business November 30, 1964, copy attached and marked Exhibit A. Prior to posting of Bulletin No. 642, Bulletin No. 2051, dated November 19, 1964, was posted stating that Thursday, November 26, 1964, is a legal holiday, therefore, no work will be done at Hayne Car Shop and Hayne Wash and Condition Track on that date, copy attached and marked Exhibit B.

Accordingly, Claimants did not receive a five working days' notice as is required and/or provided by the controlling Agreement.

This dispute has been handled with all of the officers of the Carrier designated to handle such disputes, including the highest designated officer of the Carrier, all of whom have declined to make satisfactory adjustment. The Agreement effective March 1, 1926, as subsequently amended is controlling.

POSITION OF EMPLOYEES: It is submitted that under the terms of the controlling Agreement, and more particularly, Article III of the June 5, 1962 Agreement reading:

ADVANCE NOTICE REQUIREMENTS

"Effective July 16, 1962, existing rules providing that advance notice of less than five (5) working days be given before abolishment of a position or reduction in force are hereby revised so as to require not less than five (5) working days' advance notice. With respect to employees working on regularly established positions where existing rules do not require advance notice before such position is abolished, not less than five (5) working days' advance notice shall be given before such positions are abolished. The provisions of Article VI of the August 21, 1954 Agreement shall constitute an exception to the foregoing requirements of this Article. (Emphasis ours.)

Oral hearing is requested.

(Exhibits not reproduced.)

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.

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

This claim is the companion case referred to in Award No. 5314, and necessitates the same disposition.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 26th day of October 1967.