

Award No. 6134  
Docket No. 5935  
2-SCL-CM-'71

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee William H. McPherson when award was rendered.

---

**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYES'  
DEPARTMENT, AFL-CIO (Carmen)**

**SEABOARD COAST LINE RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYES:**

1. That under the current applicable agreement the Carrier violatively and arbitrarily abolished all carmen positions at Monroe, North Carolina, on the second shift by bulletin on July 19, 1968.

2. That accordingly the Carrier be ordered to restore all positions that were abolished at Monroe, North Carolina, compensating Carmen G. C. Miller, G. W. Moss, Jr., W. B. Simpson and R. Cole time and one half pro rata rate of pay for each day they have been forced to work a shift other than their own and further that these employes be paid a straight time pro rata rate day for every day they have been held off their bid-in positions.

**EMPLOYES' STATEMENT OF FACTS:** On July 19, 1968, the Mechanical Foreman, O. L. Cox, posted a bulletin at Monroe, North Carolina, abolishing the positions of the claimant carmen, hereinafter referred to as claimants, who constituted the second shift.

This bulletin posted at Monroe, North Carolina, was without discussion or agreement with the local chairman duly authorized. The local chairman representing the carmen was not notified in writing of any change. The local chairman did not mutually agree to any meal period for these employes.

This dispute has been handled with all officers of the carrier designated to handle such matters, including the highest designated officer, all of whom have refused to make satisfactory adjustment.

The agreement effective January 1, 1968, as subsequently amended is controlling.

**POSITION OF EMPLOYES:** General rule 1 of the current agreement was violated when the duly authorized local committee was not called in to conference or apprised of the intended changes in the beforesaid bulletin

ing a change in bulletined hours was posted April 3, effective April 6, 1948. This constitutes a reasonable opportunity to reach mutual understandings. In view of the nature of the claims asserted by the employes a longer period of negotiations would have served no purpose."

It is carrier's position that there is no merit to the claim and it should accordingly be denied. Further, claimants suffered no loss of earnings as a result of the changes in shifts.

**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 waived right of appearance at hearing thereon.

Effective July 24, 1968, Carrier abolished its four Car Inspector positions at Monroe, North Carolina and established four new ones on a somewhat different schedule. The previous assignments had put one man on duty on each of twenty out of the possible twenty-one shifts per week. The new assignments omitted the second shift and instead put two men on the first shift, leaving one on the third shift. This was a change from three-shift to two-shift operation, with an eight-hour interval between the shifts.

Such a change is governed by Rule 2(b) of the Agreement between the Parties, which reads as follows:

"(b) Where two shifts are employed, the starting time of the first shift shall be governed by item (a) of this rule, and the second shift shall start immediately following the close of the first shift or as may be agreed upon at any shop by the Company and employes covered by this agreement. The time and length of the lunch period shall be arranged by mutual agreement."

Before making this change, Carrier officials discussed the matter with the senior Car Inspector at Monroe and obtained his consent.

The Organization contends that the senior Car Inspector at Monroe is not an authorized representative of the employes; that he is not the Local Chairman or even a Local Committeeman; and that the only person who could properly give the necessary consent is the Local Chairman for that district, who is stationed in Hamlet, North Carolina.

Carrier contends that it acted in good faith in obtaining the consent of the senior Carman at Monroe; that it has understood him to be the local chairman for those employes for at least the past twenty years and had always dealt with him on all labor contract matters concerning Monroe carmen during that time; and that it had never been notified by the Organization that Monroe was instead under the jurisdiction of the Local Chairman at Hamlet.

Faced with these contentions of the Carrier and supporting documents, the Organization had the burden of proving either (1) that it had notified Carrier that it should deal in such matters with the Hamlet Local Chairman or (2) that Carrier had on at least one previous occasion dealt with the Hamlet Local Chairman on a Monroe matter.

The Organization has not sustained its burden of proof. All but two of the exhibits presented for this purpose deal with matters affecting conditions in Hamlet rather than Monroe. The two relating to a Monroe carman concern a claim that arose after the change in shifts, and show only that the Carrier by that later time had learned of the correct official channels and was using them.

Carrier cannot be held responsible for having dealt with the supposed representative, with whom it had been dealing for many years without objection.

**AWARD**

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of SECOND DIVISION**

**ATTEST: E. A. Killeen  
Executive Secretary**

Dated at Chicago, Illinois, this 21st day of April, 1971.