

The Second Division consisted of the regular members and in addition Referee Robert M. O'Brien when award was rendered.

Parties to Dispute: ( System Federation No. 41, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Carmen)  
(  
( The Chesapeake and Ohio Railway Company  
( (Pere Marquette District)

Dispute: Claim of Employees:

1. That the service rights of Carman B. Caruso and rules of the Shop Crafts Controlling Agreement was violated due the Coal Miner's Strike and hence, abolishment of positions October 8, 1971 thru October 14, 1971 in violation of Rule 24, paragraph (D), Mr. Caruso be compensated 12 cents differential (the difference between Carman Car Controller and Wreckmaster) for the duration this claim and grievance is resolved.

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.

Claimant was working as a Carman when his job was abolished on October 8, 1971. Pursuant to Rule 24 (D) claimant on October 12, 1971 exercised his seniority by displacing Car Inspector Hornick. After being assigned to this position claimant requested, on October 14, 1971, that he be allowed to displace Carman-Wreckmaster Rityenheim. Carrier denied this request since claimant had exhausted his displacement rights, and since he was not qualified as a Wreckmaster in any event. That denial has led to the claim before us.

Initially, Petitioner filed claim for a 12 cent an hour differential between the position of Carman and that of Wreckmaster. Subsequently, the claim was changed to one for a 6 cent an hour differential between the position of Car Controller (which Carrier says is a non-existent position) and that of Main Yard Inspector. This claim was the final claim handled on the property. However, the claim presented to this Board is for a 12 cent an hour differential between the position of Carman Car Controller and that of a Wreckmaster due to an alleged violation of the Agreement arising as a result of the Coal Miner's Strike.

A review of the claim as it was handled on the property and as submitted to this Board reveals that the claim as originally submitted was changed on the property and further amended when it was presented to this Board. It is our opinion that the claim now before us is substantially at a variance with the claim handled on the property. Consequently, we are left no alternatives other than to conclude that the claim is procedurally defective as it violates Section 3, First (i) of the Railway Labor Act, compelling a dismissal without reaching the merits thereof.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By   
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois this 20th day of March, 1974.