

The Second Division consisted of the regular members and in addition Referee Irwin M. Lieberman when award was rendered.

Parties to Dispute: ( System Federation No. 30, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Electrical Workers)  
(  
( The Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

That the Baltimore and Ohio Railroad Company violated the provisions of Rule 24(b) of the controlling agreement as amended by Article III of the Agreement of June 5, 1962, when they arbitrarily withheld Electrician Helper W. E. Bishop, Jr., Apprentice Electricians P. L. Shahan and R. L. Bowman from the service of the Carrier commencing on June 3, 1971, without according the claimants their contractual rights under the Force Reduction Rule.

That accordingly, the Baltimore and Ohio Railroad be ordered to compensate Claimants, W. E. Bishop, Jr., P. L. Shahan and R. L. Bowman five (5) days pay each, at the applicable pro rata rate of pay in their respective work classification.

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 waived right of appearance at hearing thereon.

On October 3, 1971 Claimants herein were furloughed as a result of strikes by coal miners and dock workers. Petitioner agrees that the furloughs were made in conformity with the provisions of Article II of Public Law 91-226 effective February 19, 1970. The strike ended on November 21, 1971, but Claimants were not recalled. On December 3, 1971 Claimants were given notices that their temporary furloughs would be changed to permanent furloughs five working days later, on December 10, 1971. The dispute in this matter involves

Petitioner's contention that Claimants should have been work the five days following the notice dated December pertinent contract rule reads:

"Rule 24 (b) as amended by the June 5, 1962 Agree

Advance Notice Requirements.

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

The Organization contends that the Rule above for not less than five working days' advance notice stated that since a furloughed employee has no right to order to effect a five days' advance notice, the status must be established.

Carrier argues that there is neither any prohibition on Carrier from issuing permanent furlough notice on temporary furlough, nor any rule requiring temporarily furloughed employees to work before furlough notices.

In Award 1469, dealing with a related problem:

"We think the rule contemplates that the employees to be furloughed in securing work may be given to them while they are on furlough absent because of illness, as well as while working their positions."

This reasoning was applied to the situation in instant dispute in Award 6412 and a series of awards. In Award 6412, we said:

"It is evident that an advance notice requirement already on furlough is not provided."

The principle expressed in Award 6412 is that the rule support for the position that employees must be brought back to work so that Carrier can meet its requirements for permanent furlough. The Claim has no merit.

Form 1  
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Award No. 6673  
Docket No. 6557  
2-B&O-EW-'74

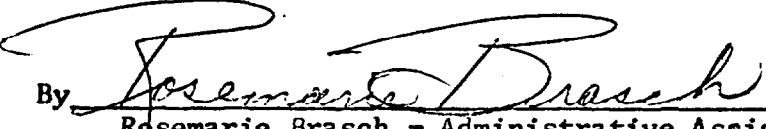
A W A R D

Claim denied.

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 17th day of April, 1974.