

The Second Division consisted of the regular members and in addition Referee James F. Searce when award was rendered.

Parties to Dispute:

- (International Association of Machinists and
Aerospace Workers
- (Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

1. That under the applicable agreement the Carrier improperly paid Machinists O. L. Jones, G. H. Mills and C. Williams for changing from one shift to another shift on August, 9, August 11, and August 18, 1975.
2. That accordingly, the Carrier be ordered to additionally compensate Machinists O. L. Jones, four hours straight time August 9th, G. H. Mills four hours straight time August 11th and C. Williams four hours straight time August 18, 1975.

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.

By Bulletin No. 76 - Force Reduction - dated August 1, 1975, Mechanical Department Employees were notified that "Effective with close of business August 8, 1975, the following force reductions would be made." Thereafter information relative to the shift, lunch period, work week and rest days by department involved was cited on the Bulletin, followed by the number of jobs by classification, e.g. 12 Machinists, 1 Blacksmith Apprentice, etc., followed by the "affected employees" and "junior employee" of each classification (e.g. 12 Machinists by name and I.D. No. as "Affected" and 12 more machinists by name and I.D., as "Junior"); this same procedure held through the various crafts indicated to be affected by the force reduction.

By Bulletin No. 91 - Exercise of Seniority - dated August 14, 1975, notice was given of the changes effected as a result of Bulletin No. 76, insofar as machinists were concerned. In essence it detailed the various displacements resulting from the exercise of seniority of those affected by the force reduction.

The Organization argues that the provisions of Rule 11 - Changing Shifts - first paragraph:

"Employees changed from one shift to another will be paid overtime rates for the first shift of each change. Employees working two shifts or more on a new shift shall be considered transferred. This will not apply when shifts are exchanged at the request of the employees involved."

applies where a shift change was involved because the changes were instituted to benefit the Carrier and not at the request of those affected. The Carrier argues that Rule 11 was instituted to prevent the Carrier from indiscriminately switching an employee from one shift to another, and that force reductions do not fall within the ambit of conditions contemplated in Rule 11.

We find no merit in the Organization's position. Bulletin No. 76 cannot be construed other than to serve notice of the abolishment of "12 Carmen, 1 Blacksmith Apprentice, 12 Machinists ... and 1 Painter Apprentice" jobs. The decision to exercise seniority rights was exclusively that of the affected employee and if such exercise entailed a change of shifts, this cannot be construed to represent an employee being "changed from one shift to another" as contemplated by Rule 11. It seems equally plausible that an employee's rights to a particular job on a particular shift depends upon two factors - the existence of that specific job and the ability of the employee to hold that job given his seniority status as compared to other employees in the same classification. Thus, an employee has rights to a specific job only so long as his seniority credentials are superior to others (or, of course, assuming more senior employees do not wish to exercise such rights). In case of a force reduction, an affected employee may retain his rights-in-seniority but not necessarily to that job; such rights now move elsewhere and are valid in comparison to a less senior employee. This transitory application and exercise of seniority rights can hardly be considered for the Carrier's convenience, as in this case, although it clearly may inconvenience the affected employee.

A W A R D

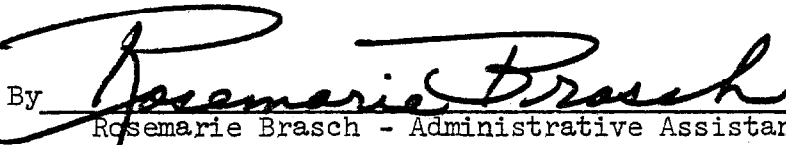
Claims are denied.

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Award No. 7675
Docket No. 7482
2-SCL-MA-'78

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 29th day of August, 1978.