

The Second Division consisted of the regular members and in addition Referee George S. Roukis when award was rendered.

Parties to Dispute: { System Federation No. 2, Railway Employees'  
{ Department, A. F. of L. - C. I. O.  
{ (Carmen)  
{ Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated the Agreement of January 12, 1976, specifically Article VI when they abolished jobs of Claimants A. G. Soto, L. S. Garcia, and L. T. Reyna and denied them the right to perform work contracted to the Carman Craft exclusively.
2. That, accordingly, the Missouri Pacific Railroad Company be ordered to compensate Claimants A. G. Soto, L. S. Garcia, and L. T. Reyna in the amount of eight (8) hours at the pro rata rate each for five (5) days per week beginning on March 15, 1976 and continuing until violation is corrected.
3. That the Missouri Pacific Railroad Company be required to restore the three (3) Car Inspectors jobs abolished in September, 1974 at Freeport, Texas in line with Article VI of the January 12, 1976 Agreement.

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.

Claimants allege Carrier violated Article VI of the January 12, 1976 Agreement when their jobs were abolished and not restored within the framework of Article VI.

Carrier's defense of the claim is based first on the allegation that the claim was not filed within the proper time limits, and secondly that no violation of the Agreement occurred.

On the time limit issue it should be noted that Article VI of the December 4, 1975 Agreement (cited as the January 12, 1976 Agreement) became effective January 12, 1976. Section (g) of Article VI reads:

"(g) This Article shall become effective 60 days after the effective date of this Agreement."

Carrier could not be required to comply with any "restoration of work" provision of Article VI until that provision of the Agreement became effective i.e., March 12, 1976. No dispute could arise under Article VI until it became effective. The instant claim was initially instituted by letter dated April 5, 1976, well within the time limit provisions of Article V of the August 21, 1954 Agreement. Carrier's defense on that basis cannot be upheld.

On the issue of Carrier being in violation of Article VI of the aforementioned agreement, the Employees have failed to submit sufficient evidence that the jobs abolished were in a departure yard where trains depart or that the work in question otherwise meets the criteria set forth in Article V of the September 25, 1964 Agreement as amended.

The claim is dismissed for lack of evidence.

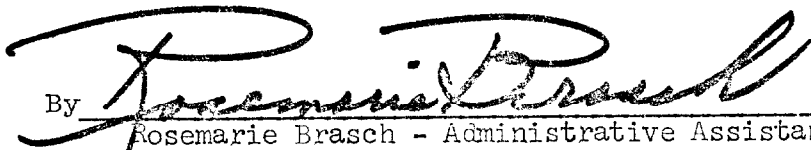
A W A R D

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 29th day of November, 1978.