

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

Parties to Dispute: (Sheet Metal Workers' International Association
(Illinois Central Gulf Railroad Company

Dispute: Claim of Employees:

1. That the Illinois Central Gulf Railroad Company, Thursday, July 5, 1979, at 10:30 a.m., violated the current agreement, most flagrantly Rules 1 and 28 (Rule 28, Section B, modified in the April 24, 1970 National Agreement, Article II, Force Reduction Rule) when they failed to compensate Sheet Metal Workers C. E. Beal, T. F. Donaldson, H. D. Davidson, L. J. Douglas, A. F. Hughes, L. F. Moore, J. J. Norton, R. J. Reed, M. A. Sellers, and W. D. Stover, four and one-half hours each at the straight time rate after instructing these employees to evacuate Johnston Roundhouse and go to an area two miles away and listen to their radio until conditions were safe to return.
2. That accordingly, the Illinois Central Gulf Railroad be ordered to compensate Sheet Metal Workers C. E. Beal, T. F. Donaldson, H. D. Davidson, L. J. Douglas, A. F. Hughes, L. F. Moore, J. J. Norton, R. J. Reed, M. A. Sellers, and W. D. Stover at the rate of four and one-half hours each at straight time rate.

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.

The Organization brings this claim on behalf of ten sheet metal workers for compensation arising out of the Carrier's alleged violation of Rule 1 and Article II of the April 24, 1970 National Agreement. Due to a fire at a nearby chemical Company on July 5, 1979, the Memphis Police ordered the Carrier to evacuate Johnston Roundhouse. The order to evacuate occurred after Claimants had completed three and one-half hours of their scheduled shift. Each Claimant is seeking pay for the remainder of his assigned July 5, 1979 shift.

There is a substantial dispute between the parties regarding the instructions given Claimants at the time of the evacuation. The Organization asserts that management told Claimants to leave the property and go to an area about two miles

away. Ostensibly, Claimants were directed to listen to their radios and to return to work when they learned conditions were safe. The Carrier affirmatively alleges that the Claimants, at the time of the evacuation, were expressly ordered to go home for the day as company operations were temporarily discontinued due to the fire.

There is insufficient evidence in the record to permit us to resolve the crucial issue of fact concerning the content of the instructions given to Claimants at the time of evacuation. We are presented with nothing more than each party's bare assertions void of any supporting evidence. What the Claimants were told at the time of the evacuation cuts directly to whether or not the Carrier intended to suspend operations within the meaning of Article II.

The Organization retains the burden of proving its claim. Since the record contains only the conflicting statements of each party on an essential issue of fact, we are compelled to dismiss the claim for lack of proof. See Second Division Awards No. 6856 (Twomey); No. 6579 (Lieberman) and No. 6467 (McGovern).

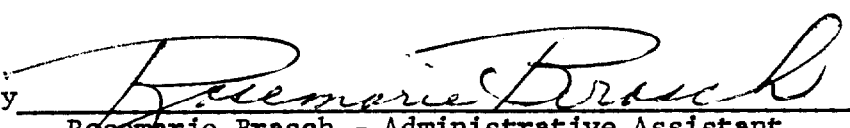
A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest; Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 19th day of May, 1982.