

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: (International Brotherhood of Firemen and Oilers
(
(Southern Railway Company

Dispute: Claim of Employees:

1. That the Southern Railway Company violated the terms of the Controlling Agreement when it furloughed Laborers (1) M. K. Lockman (2) B. G. Wilson (3) J. M. Williams (4) S. E. Mozingo (5) E. C. Cholota (6) J. H. Mackey (7) D. A. Davis.
2. That the Southern Railway Company be ordered to compensate Laborers M. K. Lockman, B. G. Wilson, J. M. Williams, S. E. Mozingo, E. C. Cholota, J. H. Mackey and D. A. Davis in the amount of forty (40) hours pay each at the pro-rata 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 employes 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.

Seven employes with Firemen and Oiler seniority entered training as student mechanics within the Carmen craft. They were furloughed from such training within 90 days and elected to displace junior employes in the Firemen and Oiler craft. This is sanctioned by Rule 153, which provides for such displacement rights, and by Rule 26 (b), which covers displacement rights upon force reduction, as occurred in the training program.

The Organization claims that the seven junior employes who were displaced (the Claimants herein), should have been entitled to five working days' notice under Rule 24, and they did not receive such notice. Rule 24 reads as follows:

"RULE 24: (a) When it becomes necessary to reduce expenses, the force shall be reduced.

(b) Except as provided in Rule 27 with respect to use of furloughed employees and Rule 25 - Emergency Force Reduction, when forces are to be reduced or positions abolished, not less than five (5) working days advance notice shall be given employees affected and list of same shall be furnished employee representatives."

A reading of Rule 24, in conjunction with Rules 153 and 26, makes it clear that the five-working-day notice is applicable to employees whose positions are abolished (that is, the positions in the training program). Rule 24 does not extend such notice to employees who are displaced as a result of such job abolishment.

Previous awards concerning virtually identical rule language reach the same conclusion. Award No. 2274 stated:

"It is the organization's thought that the words 'men affected', as used in Rule 22(b), and of whom a list is to be furnished the local committee, includes all employees affected thereby whether because of the fact that their positions are being abolished or because of the fact that they are being displaced, in the exercise of their seniority by those whose positions are being abolished. Occupants of positions being abolished in a reduction of force by the carrier may either lay off or exercise seniority as per Rule 24 of the parties' agreement. See Rule 22(a) thereof. We think the language used in Rule 22(b) should be applied to the subject of the bulletin to which it relates. In that sense the 'men affected' are those whose position are being abolished. If we were to extend its meaning beyond that subject, and relate it to all employees who might become affected because of the fact that the men whose positions were being abolished might have and would exercise their seniority, we would place on the carrier an almost impossible, and certainly an impractical requirement, for carrier would then have to anticipate what each employee was going to do. We do not think such was either the intent, meaning or purpose of the language used."

Award No. 4089 and Public Law Board 2863, Award No. 2 are to similar effect.

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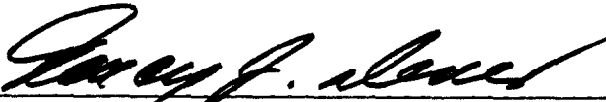
Award No. 10019
Docket No. 9596
2-SOU-FO-'84

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:



Nancy J. Fever - Executive Secretary

Dated at Chicago, Illinois, this 8th day of August, 1984.