

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States and Canada
(
(Norfolk and Western Railway Company

Dispute: Claim of Employes:

1. That the Carrier violated Rule 25 (c and d) and also Article III - Holidays of the August 19, 1960, National Agreement, when on August 28, 1980, the Carrier failed to properly recall Up-graded Carmen Apprentices R. T. Bowen III, M. D. White, J. A. Browning, Jr. and Regular Carman Apprentice A. D. Meadows from Emergency Furlough of August 26, 1980, due to a Power Outage at Princeton, Virginia.
2. That accordingly the Norfolk and Western Railway Company be ordered to compensate the aforementioned Up-graded Carmen Apprentice, and Regular Apprentice eight (8) hours at the applicable rate of pay for August 29, 1980, and also eight (8) hours pay at the applicable Holiday rate of pay for September 1, 1980.

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.

On August 26, 1980, effective at 11:30 P.M., an emergency reduction in forces was made at the Princeton Car Shop in Princeton, West Virginia due to a power outage; and some 140 employees were furloughed. All employees affected by the emergency force reduction were called on August 28, 1980 to return to work on their next available shift; as of 12:01 A.M., August 29, 1980. Also a notice recalling all employees for their shifts on August 29, 1980 was posted prior to noontime on August 28, 1980, with a copy to the Local Chairman. The four Claimants in this case were the only employees who could not be reached by the Carrier's telephone calls.

The Carrier states, and it is not challenged, that numerous attempts were made on August 28, 1980 to contact the Claimants at the telephone numbers on file for each of these individuals to notify them to return to work, however there was no response to these telephone calls.

The Organization requests that the Claimants be paid for eight hours at their respective rates of pay for August 29, 1980 because the Carrier failed to properly recall these four employees to work for August 29, 1980; and the Organization requests pay for eight hours at their respective rate of pay for Labor Day, September 1, 1980 under Article III, Holidays, of the August 19, 1960 National Agreement. The Organization cites Second Division Award 3690 as authority that a person is not notified of a recall until contacted by the Carrier. The Organization states that the Carrier never notified the Claimants of the recall, and as such they were still furloughed employees, not only entitled to pay for the lost shift on August 29, 1980, but also they were entitled to Holiday pay as furloughed employees who had worked more than eleven days in the 30 calendar days preceding the Holiday with the requisite seniority to qualify under Article III - Holidays.

We are compelled to deny this claim in its entirety. The record is clear that all employees affected by the emergency furlough were called on August 28, 1980 to return to duty on their respective shifts on August 29, 1980. Paragraph (c) of the Reduction of Force Rule allows an employee 10 days in which to file a record of his address, but in this case the emergency force reduction lasted some two full days plus one-half hour. Paragraph (c) does not contain a requirement that the Carrier must notify employees laid off for two days under a temporary emergency such as power outage by individual letters. Rule 25(d) was not violated in this case, since the Carrier restored all forces to their former positions as of August 29, 1980. The manner of notification, that of telephone calls to all affected employees, was clearly suited to the circumstances existing at that time, and facilitated the prompt restoration of forces in the interest of both employees and their seniority rights as well as the Carrier's interest. This case is not within the purview of Second Division Award 3690. In that case, on a different property with different rules and practices, the Carrier did not telephone the two Claimants, with notice of recalls to service after an emergency reduction in forces due to a flood, and their claim for failure "to notify or call" the Claimants was sustained. In the instant case the Carrier telephoned the Claimants throughout August 28, 1980 to give them notice of the recall, and their telephones were not answered. We find that this manner of notification, diligently pursued by the Carrier, was suited to the circumstances of this case. We thus find no violation of Rule 25(d) in this case.

We find that in the narrow context of this temporary emergency furlough, the posting of the notice of recall on the bulletin board prior to noontime on August 28, 1980, coupled with the evidence of a diligent effort to reach the Claimants by telephone throughout August 28, 1980 to notify them of the recall, to be effective as of 12:01 A.M. on August 29, 1980 was sufficient to again establish the Claimants as regularly assigned employees as of 12:01 A.M. on August 29, 1980. Since the Claimants were not on furloughed status on August 29, 1980, Article III - Holidays of the August 19, 1960 Agreement was not applicable to them.

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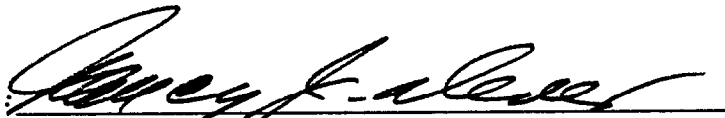
Award No. 10251
Docket No. 9808
2-N&W-CM-'85

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1985.