

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 10883
Docket No. 10595
2-B&O-CM-'86

The Second Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

(Brotherhood Railway Carmen of the United States
(and Canada

Parties to Dispute: (

(The Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

1. That the Baltimore and Ohio Railroad Company violated the controlling agreement, when on the date of November 26, 1982, Carmen Claimants D. E. McBride and G. A. Young, Lima, Ohio, reported for work on their regular assignments, unaware that they had been placed in furloughed status effective the date of November 25, 1982, both Claimants sent home without compensation, in violation of Rule 24(b) of the controlling Agreement.

2. That Carrier be ordered to make Claimants whole account this violation of their Agreement, as requested: Five (5) days pay, eight hours per day, as per the provisions of Rule 24(b) of the controlling 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 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.

Claimants McBride and Young allege that they were furloughed without proper notification in violation of Rule 24 of the Agreement. Both were employed by the Carrier at Lima, Ohio.

On November 18, 1982, the Carrier posted a Notice at Lima, Ohio, that Position 2302, held by T. L. McDonald and Position 2504 held by F. F. Vorhees, would be abolished, and that the Claimants stand to be affected by virtue of the force reduction occurring on November 25, 1982. The Notice indicates that a copy was given to the Local Committee.

On November 26, 1982, Claimants reported to work at which time they were notified that they had been bumped from their positions by the two employes whose positions had been abolished. Claimants were sent home without compensation.

Claimants and the Organization assert that the Claimants had no prior individual notice of the fact that they had been placed in furloughed status effective November 25, 1982, and therefore claim entitlement to five days pay at straight time per Rule 24(b) of the Controlling Agreement. The Carrier asserts that the Notice dated November 18, 1982 fully met the requirements of Rule 24 and the Claimants and the Organization have failed to sustain the burden of proving otherwise. Specifically, the Carrier contends that the requirement for individual notice to affected employes was specifically removed from the prior Rule, and the Rule in effect at the time the instant dispute arose required no individual notice.

We find that the former Rule 24 which existed prior to the revised and printed Agreement of 1980 required that five day advance individual notice be given to those employes being furloughed as a result of a reduction in forces. The version of the subsequently amended Rule 24 in existence at the time that this dispute arose did not require individual notice. The form of the Notice in this case and the manner in which it was posted complied with the requirements of the existing Rule 24. Second Division Awards Nos. 9885 and 9733. The burden of proof on the Organization to establish all essential elements of its Claim has not been met.

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 25th day of June 1986.