

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada
(
(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 February 18, 1983, Carman, R. E. Hamilton and J. De'Angelo's jobs were abolished and they were placed in furloughed status without benefit of mandatory five (5) working days' notice as per the provisions of Rule 24 of the controlling agreement, and further, Carman Hamilton reported for work on the date of February 19, 1983, not having been notified that he had been bumped from his position, subsequently he is entitled to call time, four hours at the straight time rate, on the date of February 19, 1983. Carrier violated Rules 15 and 24 of the controlling agreement in the instant case, monetarily injuring Claimants to the extent as claimed.:
2. That accordingly, Carrier be ordered to compensate Claimants herein as follows:
Carman, R. E. Hamilton, for call time as per Rule 4, four (4) hours pay at the straight-time rate, reporting for work and not used, and five (5) days pay at the straight time rate account not receiving notification of abolishment or reduction in force, as per Rule 24.
Carman, J. D'Angelo, five (5) days pay at the straight time rate account not receiving notice of abolishment or reduction in force, as per Rule 24, thus rendering Claimants whole, as a result of Carrier's violation of their 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.

This Claim arose after the Claimants were placed on furlough. The Organization contends that the Carrier failed to provide the Claimants five (5) working days advance notice, as required by and pursuant to Rule 24 of the Agreement.

This Division has held on numerous occasions that it much prefers to deal with Claims on their merits. However, when it is found, as here, that the parties have not complied with a substantive provision of their Agreement, we are compelled to address and dispose of the threshold procedural question.

The initial Claim was filed under date of March 25, 1983, to the Manager of Mechanical. That person advised the Organization that he was not the Officer designated to handle Claims and that the Claim should be sent to the General Plant Manager of the Cumberland Locomotive Facility. However, the Claim was then submitted to Mr. T. N. Keller, Manager of Labor Relations, rather than the proper person designated to receive Claims.

The record shows that the persons to whom Claims were to be submitted had been clearly identified and was known to the parties. The Board, must dismiss this Claim in light of the particular circumstances of record because it was not handled pursuant to Rule 33 of the Agreement.

A W A R D

Claim dismissed.

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.