

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

Parties to Dispute: (Sheet Metal Workers International Association
(
(Southern Pacific Transportation Company
((Western Lines)

Dispute: Claim of Employees:

1. That the Carrier violated Rule 1(b), 1(c) 1(h) and 7, 1(k), Rules 19, 32, 33 and 77 of the current Motive Power and Car Department Agreement on March 4, 1983 when two (2) employees of the Boilermakers Craft and two (2) employees of the Electricians Craft were wrongfully assigned to perform work that is generally recognized as Sheet Metal Workers work.
2. That claimants T. H. DeGroot, J. L. Regalado, J. C. O'Rourke and R. J. Flores were the first four Sheet Metal Workers to be recalled from furlough, of the more than 80 furloughed Sheet Metal Workers of the Sacramento Locomotive Works, were available and willing to work.
3. That the Carrier compensate claimants for 8 hours pay each at their straight time rates.

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employees 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.

Although notified, the Boilermakers and Blacksmiths Union did not file a submission in this dispute. The Electrical Workers Union chose not to intervene in this case.

Claimants are the first four Sheet Metal Workers to be recalled from furlough at the Carrier's Sacramento Locomotive Works. Immediately prior to Friday, March 4, 1983, several locomotives were trapped behind wash-outs in the Tehachapi Mountains thereby causing a shortage of locomotives needed to meet the Carrier's traffic demands. In order to overcome this locomotive shortage, the Carrier decided to remove thirty locomotives from storage at the Sacramento Locomotive Works. In order to prepare the locomotives for service, certain maintenance functions on those locomotives were needed to be performed by the Sheet Metal Workers, Machinists, Electricians, Boilermakers and Laborers.

On Friday, March 4, 1983, the Carrier's General Foreman requested that four Sheet Metal Workers work overtime for eight hours to assist in the maintenance work necessary on the stored locomotives. All 26 Sheet Metal Workers on the active roster were asked to perform the overtime work. However, only two agreed to work the requested overtime. The Carrier then selected two Boilermakers and two Electricians to replace water pumps on the stored locomotives that were to be put back into service. At the time, there were in excess of 60 furloughed Sheet Metal Workers at the Sacramento Locomotive Works. Prior to selecting the Boilermakers and the Electricians to perform the Sheet Metal work, the Carrier did not contact any of the furloughed Sheet Metal Workers and offer the work to those employees. On Saturday, March 5, and Sunday, March 6, 1983, a sufficient number of Sheet Metal Workers on the active working list accepted the overtime work.

The Organization asserts that before the Boilermakers and Electricians could be assigned the Sheet Metal work on March 4, 1982, the Carrier was obligated to first contact the Sheet Metal Workers on furlough and offer the work to those employees. By failing to first offer the work to the furloughed Sheet Metal Workers, the Organization asserts that the Claimants are entitled to eight hours pay at their straight time rate. The Carrier asserts that under the facts of this case, which it contends constituted an emergency, there was no obligation to go to the furloughed list and offer this temporary work since it had already offered the work to all of the employees on the active Sheet Metal Workers list. The Carrier further contends that no violation of Rules 1(b), 1(c), 1(h) 1 and 7, and 1(k) can be found since although those rules were raised by the Organization when it filed its initial Claim, no mention of those rules were made when the Claim was appealed to the Carrier's highest Appeals Officer.

A close reading of this record shows an unusual situation that the Carrier claimed was the result of an emergency. At no time was that assertion challenged on the property. That emergency assertion cannot be challenged here. Second Division Award No. 8093. There is nothing in the record before us to contradict the assertion that an unusual situation existed by virtue of the wash-out necessitating the reactivating of mothballed locomotives. In an emergency situation, the Carrier has broader authority in the assignment of employees. Third Division Award 12777.

Here, the Carrier offered the overtime work resulting from the need to get the locomotives back in service to meet traffic demands to all members of the active Sheet Metal Roster on the date in question and an insufficient number of Sheet Metal Workers responded. It is undisputed that there was insufficient time for the Carrier to approach the furloughed employees under the circumstances to meet the demands of the moment. While we recognize the need to protect the jurisdiction of the craft, the unusual set of circumstances presented here, in our view, permits in this case the assignment of work to non-Sheet Metal Workers. This conclusion is further supported by the fact that on the next two days, sufficient Sheet Metal Workers chose to accept the overtime and the situation was not of a continuing nature.

However, on the date in question, the record sufficiently demonstrates that four Sheet Metal Workers were needed to work the overtime and two agreed. Nevertheless, the Carrier assigned four non-Sheet Metal Workers rather than only the necessary two to perform the Sheet Metal work. No explanation appears in the record as to why four rather than two non-Sheet Metal Workers were utilized. Therefore, the two most senior furloughed Sheet Metal Workers shall be compensated at the rate those employees would have received if they had performed the work.

In light of the forgoing, it is not necessary to address the Carrier's assertion that certain rule violations were waived because they were not raised on the property.

A W A R D

Claim sustained in accordance with the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Bever - Executive Secretary

Dated at Chicago, Illinois this 16th day of July 1986.