

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 11757  
Docket No. 11487  
89-2-87-2-124

The Second Division consisted of the regular members and in addition Referee Thomas F. Carey when award was rendered.

PARTIES TO DISPUTE: (Sheet Metal Workers International Association  
(  
(Southern Pacific Transportation Company (Western Lines)

STATEMENT OF CLAIM:

1. That on June 13, 1986 the Carrier violated the current Agreement between the OUR&D Company, the Southern Pacific Company (Pacific Lines), the Union Pacific Railroad Company and their employees represented by System Federations 105 and 114 signed January 29, 1968 and letter of Agreement of the same date signed by C. A. Ball, Manager of Personnel, Southern Pacific Company.

2. That Claimants L. D. Curtis, M. Maggio, L. D. Larson and G. A. Wilson are covered employees under said Agreement and should have been retained in service as provided by the Agreement.

3. That Claimants be compensated by the Carrier for 8 hours pay each at the Sheet Metal Workers straight time rate for each and every work day of their positions beginning June 14, 1986 until August 23, 1986, when Claimants were returned to service, including any and all increases in pay provided by agreement provisions, for all holiday pay, personal leave days pay, jury duty pay, vacation pay, pay for all medical and dental expenses incurred by Claimants and their dependents, pay for life insurance benefits, that Claimants be made whole for all retirement benefits and for all other contractual benefits accruing to them.

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 were given due notice of hearing thereon.

The Claimants are employed by the Carrier at its Ogden, Utah, Locomotive Maintenance Plant. The facility at Ogden is at the end of the Carrier's Overland Route, and the principal interchange point with the Union Pacific and the Denver and Rio Grande Western Railroads. The Overland Route

provides access to the Utah gateway and to connections with the aforementioned railroads via a causeway across the Great Salt Lake.

Rising water levels in the Lake had recently necessitated the Carrier's expenditure of over \$60 million to raise the causeway's earthen fill which provided a foundation for the tracks. Despite these efforts, however, serious storms continued to cause extensive damage that required days of repair work in order to restore normal operations. On June 7, 1986, wave action caused by 60-mile-per-hour winds damaged 11 1/2 miles of the 27-mile-long causeway, and necessitated the closure of the Carrier's mainline between Ogden, Utah, and Alazon, Nevada. As a result, all the Carrier's trains had to be detoured over Union Pacific tracks between Salt Lake City and Alazon until August 24, 1986.

When the determination was made that the causeway would have to be closed for at least two months for repairs, the Carrier announced on June 13, 1986, that it would have to furlough 30 clerks and 91 shopcraft employees (including the Claimants) under the emergency force reduction provisions of the controlling Agreements. On August 24, 1986, in anticipation of a partial reopening of the causeway, the Claimants were recalled.

It is the position of the Organization that the Carrier unjustly removed the Claimants from service, since it failed to prove that its operations were suspended in whole or in part at the Ogden Locomotive Maintenance Plant, itself. The Carrier, however, points out that its mainline was completely out of service, and, as a result, all traffic had to be routed over a competing carrier. This bypassing of the Ogden facility had the effect of causing all regular work at the Ogden Plant to evaporate. It, therefore, was forced to furlough the Claimants, and did so, under the provisions of Article VI of the August 21, 1954 Agreement, as amended, and pursuant to Section 8 of the OUR&D Agreement. The Carrier also maintains that since Claimant Wilson resigned from the Carrier's service subsequent to the date of the filing of the instant Claim, he is no longer a proper Claimant in the case.

Article VI of the controlling Agreement reads, in pertinent part:

"Rules, agreements or practices, however established, that require advance notice to employees before temporarily abolishing positions or making temporary force reductions are hereby modified to eliminate any requirement for such notices under emergency conditions, such as flood, snow storm, hurricane, tornado, earthquake, fire or labor dispute other than as covered by paragraph (b) below, provided that such conditions result in suspension of a carrier's operations in whole or in part."

Further, Section 8 of the OUR&D Agreement states:

"This agreement does not preclude abolishment of positions on 16-hour notice under emergency conditions as provided for in Article VI of Agreement of August 21, 1954."

In the instant case, the Carrier has submitted evidence that attests to the fact that its mainline between Ogden, Utah, and Alazon, Nevada was out of service during the period of June 7, 1986, and August 24, 1986, due to damage sustained to a causeway from flooding and hurricane-force winds. During that time, according to the Carrier, all work at its Ogden Locomotive Maintenance Facility evaporated due to the rerouting of the trains. Conversely, the Organization maintains that the Locomotive Facility, itself, was not affected by the natural disaster and that the Claimants should not have been furloughed. However, it presented no evidence to demonstrate that there had been work for the Claimants to perform during the period of the emergency and that they, therefore, should have been kept in service.

In similar Third Division Awards, the Board held:

"We are thus left with vague and indefinite conclusionary statements; without direct evidence to consider in reaching a determination of this dispute. Nowhere in the handling of this claim was there any probative data furnished showing how claimant was affected, what duties were performed improperly or what specific, particular assignment of work allegedly violated the rules cited by the Petitioner." (Third Division Award 21725)

"The awards emanating from this Board establishing the principle that claims must be specific and that Carrier is under no obligation to develop the claim for the petitioner are too numerous to mention. Suffice it to say that the principle is well established and not subject to dispute. The burden is on Petitioner to present facts sufficiently specific to constitute a valid claim." (Third Division Award 11675)

It is the opinion of this Board that, in the instant case, the Organization has failed to present factual data sufficient to support its allegations. Accordingly, the Claim is denied.

A W A R D

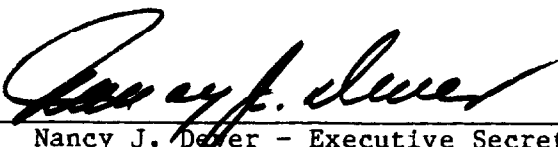
Claim denied.

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NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest:

  
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 2nd day of August 1989.