

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12848
Docket No. 12746
95-2-93-2-171

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

PARTIES TO DISPUTE: (International Brotherhood of Firemen
(and Oilers
(
(The Atchison, Topeka and Santa Fe
(Railway Company

STATEMENT OF CLAIM:

- "1. That the Atchison, Topeka, and Santa Fe Railway Company violated Article I, Section 4, of the September 25, 1964 Agreement when they failed to give at least sixty (60) (ninety (90) days in cases that will require a change of employees' residence) notice of the abolishment of jobs in Cleburne, Texas to the following Firemen and Oilers:

R.D. Allen
L.M. Manning
G.E. Russell

2. That the Atchison, Topeka, and Santa Fe Railway Company further violated the September 25, 1964 Agreement when they failed to provide protective benefits to the above-listed Firemen and Oilers who were deprived of employment as stated in one or more of the reasons set out in Article I, Sections 1, 2 and 3 of the September 25, 1964 Agreement.
3. That, accordingly, the Atchison, Topeka, and Santa Fe Railway Company be ordered to make whole the above-named Claimants by payment for time lost as a result of the abbreviated furlough notices; and further, that the Atchison, Topeka, and Santa Fe Railway Company be ordered to apply the protective benefits set forth in Article I, Sections 5 through 11, as applicable, of the September 25, 1964 Agreement, as amended."

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 employee 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.

The dispute was still pending with SBA No. 570 when on June 1, 1993, the parties at the National Level agreed that disputes of this type which had not been assigned to and argued before a Referee at SBA No. 570 could "be withdrawn by either party at any time prior to August 1, 1993." The Agreement allowed that "a dispute withdrawn pursuant to this paragraph may be referred to any boards available under Section 3 of the RLA" (underscore ours for emphasis)

Initially, three Claimants were part of the claim progressed by the Organization. By letter, dated June 8, 1992, the parties agreed to remove Claimants Manning and Russell from the claim. Therefore, Claimant Allen is the only remaining Claimant in this case.

The basic question before the Division is whether there has been a violation of Article I, Sections 1, 2, and 3 of the September 25, 1964 Agreement ("Agreement"). These Sections provide in pertinent part as follows:

"ARTICLE I - EMPLOYEE PROTECTION

Section 1 -

The purpose of this rule is to afford protective benefits for employees who are displaced or deprived of employment as a result of changes in the operations of the carrier due to the causes listed in Section 2 hereof, and * * *

Section 2 -

The protective benefits of the Washington Job Protection Agreement of May, 1936, shall be applicable, as more specifically outlined below, with respect to employees who are deprived of employment or placed in a worse position with respect to compensation and rules governing working conditions as a result of any of the following changes in the operations of this individual carrier:

- a. Transfer of work;
- b. Abandonment, discontinuance for 6 months or more, or consolidation of facilities or services or portions thereof; * * *

Section 3 -

An employee shall not be regarded as deprived of employment or placed in a worse position * * * for any other reason not covered by Section 2 hereof."

The basic contention in this claim is that the Claimant's work was transferred to the Carrier's facilities at Topeka, Kansas, and San Bernadino, California.

The Cleburne facility was closed on September 10, 1989. The Organization mainly relies upon a series of events to support its contentions. Many of these occurred long before the Claimant's furlough, although one did take place afterward. The evidence shows that Claimant Allen was furloughed on September 11, 1987, recalled to service on January 26, 1988 and furloughed again on May 23, 1988.

The Board has carefully reviewed the materials relied upon by the Organization. From the review, we find that the Organization has not presented a prima facie case to support its position. The Division notes that essentially the same material and arguments relied upon by the Organization were previously addressed and found not to be sufficient (See Public Law Board 5468, Award 1).

In summary, a causal nexus has not been established by the Organization and, therefore, the claim is denied.

Form 1
Page 4

Award No. 12848
Docket No. 12746
95-2-93-2-171

AWARD

Claim denied.

O R D E R

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 24th day of February 1995.