

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12849
Docket No. 12747
95-2-93-2-172

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) days' notice of the abolishment of jobs in Cleburne, Texas to the following Firemen and Oilers:

G.E. Russell	J.L. Burgess
L.K. Kiker	C.F. Bruce
R.D. Allen	L.C. Thomas
L.M. Manning	Jim Crawford
K.M. Bullard	T.E. Davis
C.T. Simms	G.E. Fuller
J.W. Gaida	O.T. Fuller
C. Polk	A. Pollard
G.N. Manning	B.E. Hicks
A.E.D. Carr	C.L. Harrison
M.W. Stephens	E. King, Jr.
D.E. Patterson	J.T. McCowen
V.L. Pierson	P.H. Miller, Sr.
H.P. Birchfield	O.L. McCullough

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 were given due notice of 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agreed that disputes of this type which had not been assigned to and argued before a Referee at SBA No. 570 could "be withdrawn by either party at any time prior to August 1, 1993."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)

This is another of a series of claims before the Division that was triggered by the closing of the Carrier's Cleburne, Texas, facility in September 1989. The essential issues before us are the same as those involved in Second Division Awards 12819 and 12812, involving the Machinists Union and those in Awards 12847 and 12848, involving the Firemen and Oilers Union, the party to this claim. Accordingly, in this Award we will only summarize the essential points.

What is being asserted here is that the Carrier did not comply with Article I, Sections 1, 2, and 3 of the September 25, 1964 Agreement ("Agreement"). The Organization contends that, beginning with the September-December 1989 time frame, when employees were furloughed and continuing thereafter, the Claimants work was transferred to Topeka, Kansas, and to San Bernadino, California, in anticipation of the closing of the Cleburne facility.

As noted earlier, this issue was addressed by the Division in the four cases noted above. These claims were denied. Likewise, Public Law Board No. 5468, Award 1 in a claim involving the Carmen's Union reviewed the same basic arguments and contentions as we have in this claim and denied the claim.

In summary, we find that the Claimants were not "deprived of employment or placed in a worse position" as contemplated by the Agreement and, therefore, the claims are denied.

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.