

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12852
Docket No. 12750
95-2-93-2-169

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

(International Brotherhood of Firemen
(and Oilers
PARTIES TO DISPUTE: (
(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's residence) notice of the abolishment of jobs in Cleburne, Texas to the following Firemen and Oilers:

M.R. Flippin, Sr.	D.W. Turpen	B.G. O'Dell
F.G. Johnson	S.M. Baldwin	G.K. Simmons
J.B. Lawshe	L.K. Shelton	A.E.D. Carr
R.L. Sharp	K.D. Hawhee	R.L. Potter
J.W. Gaida	J.M. Reyna	W.L. Oliver
O.P. Watson	T.C. Franklin	T.S. Perez, Jr
J.M. Porter	R.D. Bascom	

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agreed that disputes of this type which had not been assigned to and argued before a Referee at SBA No. 570 could "be withdrawn by either party at any time prior to August 1, 1993."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

In effect, this is a continuation of the claim filed under Second Division Award 12849, concerning the Carrier's Cleburne, Texas, facility. In this case, the Claimants, all employed at Cleburne, were furloughed during November 1988 through April 1989 time frame. The assertion is that the Carrier violated various parts of Article I of the September 25, 1964 Agreement ("Agreement").

In its simplest terms, the Organization argues the Claimants were deprived of employment by being furloughed in anticipation of the closing of the Cleburne facility. In so claiming, the Organization has relied on and supplied to the Division numerous documents pertaining to events during the time period at issue here. It claims that this material shows that the Claimants' furloughs arose because of a transfer of work and abandonment of the Cleburne facility.

From our careful review of the evidence, which we find generally the same as in other claims before the Division on the same basic issue as here, we find that the case has not been made by the Organization. The Claimants were not affected by an operational change as contemplated by the Agreement. Moreover, we again note that the same basic issue, covering the same basic time frame has been considered and decided by this Division and by Public Law Board No. 5468, Award 1.

Form 1
Page 3

Award No. 12852
Docket No. 12750
95-2-93-2-169

Accordingly, we must deny the claim.

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.