

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12906
Docket No. 12743
95-2-93-2-135

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists
(and Aerospace Workers
(
(Illinois Central Railroad

STATEMENT OF CLAIM:

"That the Illinois Central Railroad, hereinafter referred to as Carrier or Company, has violated the controlling agreement dated September 25, 1964, as subsequently amended, Article I, Employee Protection, because Machinists Perry Brent, Mike Barron, Willie Carr, and Jerry Rayborn have not been afforded the Employee Protection Benefits each claimant is entitled to pursuant to the express provisions of Article I, of the September 25, 1964 Agreement as a result of their being adversely affected account of the Carrier's change of operations (transfer of work) from its McComb, Mississippi, Shops during the period October, 1988 through September, 1989, for which no notice was given the Employees as required by Article I, Section 4 of the September 25, 1964 Agreement.

That each of the claimants: Machinists Perry Brent, Mike Barron, Willie Carr, and Jerry Rayborn be afforded the employee protective benefits provided by the controlling agreement."

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 Organization seeks protective benefits under the September 25, 1964 Agreement for four Machinists based on the alleged "transfer of work" from McComb, Mississippi. The Organization points to reductions from October 1988 to September 1989 of locomotive daily inspection (621 to 102) and units serviced (725 to 116). One of the Claimants was furloughed in April 1989, and the other three Claimants were furloughed in July 1989.

To be eligible for protective benefits, the Organization must show as a minimum that work no longer performed at McComb (and thus causing the furloughing of four employees) was, in fact, transferred elsewhere.

The Carrier takes the position that such transfer has not occurred and that the requirement for fewer Machinists at McComb is due to a reduction in operations. The Carrier points to the reduction from January to August 1989 of approximately 100 locomotives in active service. In addition, the Carrier contends that it reduced the servicing of locomotives which are in service. The record shows that the Carrier offered to enter an implementing agreement with the Organization as to the force reduction at McComb if the Organization could provide information as to where work had been "transferred."

The Board finds that, absent specific information as to the transfer of work (in contrast to the described reduction of operations) there is no basis under the September 25, 1964 Agreement for protective benefits sought by the Claimants. As stated in Special Board of Adjustment No. 570, Award 1094:

"... the Organization failed to meet its burden of establishing a prima facie case that work was transferred from Handley, West Virginia, to other points on Carrier's System. Instead, we are persuaded that the abolishments of the Claimants' [positions] stemmed from economic decline."

This claim is similar to that reviewed in Second Division Award 12905, and the Board's reasoning is similar here. Also as in Award 12905, the Organization argues that certain work regularly performed by Machinists has been assigned to others -- in this instance, Engineers and Trainmen. While this is an allegation which the Organization is at liberty to pursue separately and with specific proof, it is not appropriate within the claim here under review, which centers on protective benefits rather than assignment of work.

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AWARD

Claim denied.

ORDER

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 16th day of August 1995.