Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 13112
Docket No. 12885
97-2-94-2-50

The Second Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (International Association of Machinists and Aerospace Workers
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM:

"That the Atchison, Topeka and Santa Fe Railway Company (hereinafter referred to as the 'Carrier') violated the provisions of Article I of the employee protection benefits of the September 25, 1964 Agreement contained in Appendix No. 7 of the Controlling Agreement on the property, Form 2642 - A. Std., between the Atchison, Topeka and Santa Fe Railway Company and its employees represented by the International Association of Machinists and Aerospace Workers (hereinafter referred to as the 'Organization') when the Carrier inappropriately furloughed from service J. G. Vandiver, G. L. Cutrell, and R. D. Geist, (hereinafter referred to as the Claimants). This reduction of force was an obvious attempt to limit the number of employees who would be eligible for protective benefits when the Carrier abandoned the facility 61 days later. Subsequent to this initial force reduction, the Carrier on June 30, 1991, abolished the two remaining machinists positions at La Junta, Colorado that were held at the time by W. G. Bemiss and C. R. Burns, (hereinafter, also referred to as the 'Claimants'). The Carrier, gave no reason for such action and failed to abide by the provisions of Appendix No. 7, Article I, Sections 1 through 11, after depriving employment to the Claimants due to an obvious change in the Carrier's operation.

That, accordingly, the Carrier compensate the Claimants at their pro-rata daily rate for eighty-five (85) days which represents the number of days which the appropriate ninety (90) day notice was abbreviated.

Also, that the Claimants be accorded all employee protective benefits as set forth in the above indicated Agreement provisions."

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 five herein Claimants were furloughed on April 30, 1991 and June 30, 1991, from Carrier's La Junta, Colorado, facility. In their petition to this Board Claimants are seeking benefits provided by the September 25, 1964 Shop Crafts Agreement in Mediation Case No. A-7030. The Organization contends that Carrier manipulated the rules of the Agreement to avoid payment of protective benefits.

Carrier argues that a transfer of Claimant's work did not occur, that the facility was not abandoned, and there were no technological changes imposed which affected Claimants. Accordingly, they are not entitled to the relief requested.

The Organization, as petitioner herein, has the burden of establishing the merits of its claims. In this record it has submitted argument, without evidence, to support its contentions. Argument, without evidence, is not sufficient for this purpose. And the Organization should have been well aware of this requirement. For example, see Special Board of Adjustment No. 570, Award 1005, involving this Organization and this Carrier. In that decision it was stated:

> "As a threshold matter, it is well established that the Organization must establish as a prima facie matter that Section 2 factors caused the furlough of an employee before the burden shifts to Carrier ... . [When]

an employee is furloughed, or work opportunities are diminished, it I does not necessarily follow that the protective benefits of the Agreement are triggered. There must be a connection between the adverse effect and Section 2 factors ... ."

In this matter the Organization has been unable to demonstrate to this Board a connection between the furloughs of Claimants and the Section 2 factors triggering entitlement to protection. The claim is without merit. It will be denied.

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 6th day of May 1997.