

CORRECTED

Award No. 18294

Docket No. CL-18540

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John B. Criswell, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP
CLERKS, FREIGHT HANDLERS, EXPRESS AND
STATION EMPLOYES**

**THE DENVER AND RIO GRANDE WESTERN
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6738) that:

1. Carrier violated terms of Article III of the National Agreement dated June 5, 1962 which provides for 5 working days' advance notice before positions are abolished.

2. Carrier shall now compensate the following:

Gray W. Mills, Helper, Utah for October 11, 12, 13 and 14, 1968 at Assistant Chief Clerk's rate of pay.

Charles Wayne Dimick, Helper, Utah for October 14, 15, 16 and 17, 1968 at Janitor-Crew Caller rate of pay.

J. D. Karr, Helper, Utah for October 10, 1968, 3:30 P. M. to 11:30 P. M., at the General Clerk rate of pay.

Mike S. Zamantakis, Helper, Utah for October 10, 11 and 14, 1968, 10:00 P. M. to 6:00 A. M. at General Clerk rate of pay.

R. L. Pagano, Helper, Utah for October 13 and 14, 1968, 7:30 A. M. to 3:30 P. M., at Bill Clerk rate of pay.

account Carrier failing to give the proper 5-day notice.

EMPLOYES' STATEMENT OF FACTS: Effective 12:01 A. M., October 9, 1968 the United Mine Workers called a strike which affected various coal mines throughout the United States. Such mines that were affected on the D&RGW were at Castle Gate, Spring Canyon, Columbus, Sunnyside and Columbia in Utah. The coal from these mines move to Helper, Utah which is a

There has been no violation of your Agreement and claims are denied.

Yours truly,

/s/ J. W. Lovett
J. W. Lovett
Director of Personnel"

The General Chairman did not reply to this letter.

OPINION OF BOARD: On October 9, 1968, the United Mine Workers called a strike which affected coal miners served by the Carrier involved in this Case.

Certain runs were discontinued and the Carrier eliminated positions on October 10 after giving occupants — Claimants herein — 16 hours' notice.

It is the Carrier's contention that it acted under the provisions of Article VI of the August 21, 1954 Agreement, which reads:

"Rules, agreements or practices, however established that require more than sixteen hours' advance notice before abolishing positions or making force reductions are hereby modified so as not to require more than sixteen hours such advance notice under emergency conditions such as flood, snow storm, hurricane, earthquake, fire or strike, provided the Carrier's operations are suspended in whole or in part and provided further that because of such emergency the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions no longer exists or cannot be performed."

The facts as presented by the Carrier convince us that its operations were "suspended in . . . part." The Organization fails to show us that this was not the case, and that remaining work was sufficient to require the maintenance of the abolished positions. We find, under the rules of the Agreement, that the 16-hour notice was sufficient.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November, 1970.

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