

The Third Division consisted of the regular members and in addition Referee Peter R. Meyers when award was rendered.

(Brotherhood of Maintenance of Way Employees
PARTIES TO DISPUTE: (
(Southern Pacific Transportation Company (Eastern Lines)

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it laid off Foreman C. Wyatt, Assistant Foreman A. L. Joseph and W. E. Boykins, Laborer Drivers M. Henry and R. D. Cervantes, Laborers W. M. Victoria, C. R. Luna, J. R. Luna, H. V. Sanchez, J. B. Medino, F. L. Alonzo, G. Ortiz, J. A. Yanez, Machine Helper S. Moreno, Machine Operators T. R. Luna, F. D. Averitt, K. C. Blount, E. H. Williams, R. K. Tausch, R. R. Chafin, J. L. Simmons, S. Broussard, L. Lopez, L. A. Smith, L. M. Munoz, J. L. Rodriguez, A. A. Riojas, J. J. Pena, R. V. Cervantez, L. R. Garcia, A. V. Arreguin and F. C. Martinez without benefit of five (5) work days' advance notice (System File MW-85-27).

(2) The claimants shall each be allowed eight (8) hours of pay at their respective straight time rates because of the violation referred to in Part (1) hereof."

FINDINGS:

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

The carrier or carriers and the employe or employees involved in this dispute are respectively carrier and employes 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 waived right of appearance at hearing thereon.

Claimants all were regularly assigned to Extra Gang #35 at Lacoste, Texas. On November 14, 1984, Claimants were verbally notified that Extra Gang #35 would be abolished sometime the following week. On Thursday, November 15, 1984, Claimants received written notice that the gang would be abolished as of the close of work on Tuesday, November 20, 1984. The Organization thereafter filed a claim on Claimants' behalf, contending that Carrier had violated the Agreement by giving Claimants less than the required five days' notice that their positions were to be abolished.

This Board has reviewed the evidence in this case, and we find that the rules require that employees be given "not less than five (5) working days' notice" when their positions are going to be abolished. Article III, Section 1(f) reads:

"Not less than five (5) working days' notice will be given to regularly assigned employees, not including casual employees or employees who are substituting for regularly assigned employees, who are subject to the rules of the existing collective bargaining agreement whose positions are to be abolished before such reductions in force are made . . ."

The record is clear that a written notice was given on Thursday, November 15, 1984, and the gang was abolished on Tuesday, November 20, 1984. The employees did not receive the required five (5) days' notice, and therefore the claim must be sustained.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1988.