

The Third Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(
(CSX Transportation, Inc. (formerly Seaboard
(System Railroad)

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

(1) The Carrier violated the Agreement when it furloughed Bridge and Building Department forces during the construction of an Agency Building at Fernandina Beach, Florida [System File 12-2(86-15) I/B&B-85-85].

(2) As a consequence of the aforesaid violation 'the B&B Employees involved in the recent cut off' and 'the B&B Employees furloughed in the prior abolishments protected by this Agreement' shall each be allowed eight (8) hours of pay, at their respective straight time rates, for each day of continual violation."

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.

On July 23, 1985, the Organization and Carrier reached an understanding concerning construction of an Agency building at Fernandina Beach, Florida. This understanding provided that Carrier could use an outside contractor for construction of the building and that there would be no B&B forces furloughed during the course of the project. During November 1985, while the building was still under construction, Carrier furloughed employees in all Crafts, including B&B forces. At the same time, the contractor was notified he would not be able to continue work on the project.

On December 6, 1985, a Claim was filed on behalf of unnamed, furloughed B&B forces. This Claim was rejected by Carrier on the basis it was improper under the Agreement because the individual Claimants were not named or readily identifiable and that it was for an uncertain period and for no specific amount. On the merits, the Carrier contended the Contractor did not work

after the date the November furloughs were effective and that B&B forces were thereafter used to complete the structure. Carrier also argued the Claim was "vague, indefinite and uncertain" and was based on a theory that:

"...Carrier was required to continue having B&B work performed by the Contractor and prohibited from furloughing B&B forces because (the Organization) consented to contracting B&B work in this lock and key project."

This Board agrees with the Carrier's position that the Claim is vague, indefinite, and uncertain. We also find the Organization has not demonstrated that the understanding reached by the parties was not honored by the Carrier. The Agreement provided that no B&B forces would be furloughed "during the course of this project." Clearly, this commitment was linked to the use of an outside contractor. As of November 22, 1985, that contractor ceased all work that could be performed by Carrier employees.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Beyer - Executive Secretary

Dated at Chicago, Illinois this 25th day of September 1989.