

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: ((Brotherhood of Maintenance of Way Employees
(The Chesapeake and Ohio Railway Company
(Northern Region)

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

(1) The Carrier violated the Agreement when, without thirty (30) calendar days' advance written notice to the General Chairman and without a conference with the General Chairman as required by Rule 8-1/2(a), it abolished Yard Gangs 1228-1126 and 1245-1105 effective August 2, 1985 (System File C-TC-2850/MG-5437).

(2) Because of the aforesaid violation, Mr. L. Abernathy shall be allowed five (5) days' pay at his straight time rate; Messrs. C. Paetz and J. Wiedenman shall each be allowed two (2) days' pay at their respective straight time rates and Messrs. L. Falkingham, P. Dickerson and C. Campbell shall each be allowed twenty (20) days' pay at their respective straight time rates."

FINDINGS:

The Third 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 employees 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 August 2, 1985, Carrier abolished Yard Gang 1228-1126 at St. Louis, Michigan, and Yard Gang 1245-1105 headquartered at Chatham, Ontario. Carrier gave notice of abolishment to members of the gang in accordance with Rule 8 1/2(b), which calls for not less than five days' notice. Petitioner contends that Carrier erred by giving only five days' notice of abolishment to employees when it should have given notice in accordance with Rule 8 1/2(a). This Rule requires that a thirty-day notice be given to the General Chairman when territories are rearranged or gangs are abolished. Rule 8 1/2(a) and (b) read as follows:

"(a) Territories may be rearranged or gangs abolished after thirty (30) calendar days written notice has been served on the General Chairman of the Employees' Organization and conferences held for the purpose of reaching an understanding concerning reassignment of the employees affected to the rearranged territory.

(Effective July 16, 1962)

(b) Gangs will not be laid off for short periods except for emergency conditions provided for in Section (c), but when reduction in expense is necessary it will be accomplished by laying off the junior employees. This is not intended to prevent the management from laying off or abolishing extra gangs or seasonal forces, which may be used or discontinued as necessity requires. In making force reduction, not less than five (5) working days' advance notice shall be given to those regularly assigned employees affected, except as provided by Section (c) of this rule."

This Board has reviewed the record and the language of Rule 8 1/2. It is our opinion that Carrier acted properly in this instance and that the abolishment of the yard gang in question is controlled by Rule 8 1/2(b). Proper notice of abolishment was given in this instance.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Bevel - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1990.