

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 30930
Docket No. CL-31410
95-3-93-3-318

The Third Division consisted of the regular members and in addition Referee Elizabeth C. Wesman when award was rendered.

(Transportation • Communications
(International Union
PARTIES TO DISPUTE: (
(Gateway Western Railway

STATEMENT OF CLAIM: "Claim of the System Committee of
the Organization (GL-10959) that:

1. Carrier violated the Agreement at Kansas City, MO, East St. Louis, IL, Venice, IL, and Fairview Heights, IL, on June 24, or 25 or 26, [1992] or all, when it refused to permit TCU Agreement covered Clerical employees to perform service.
2. Carrier shall now compensate all TCU Clerical Agreement covered employees at Kansas City, East St. Louis, Venice and Fairview Heights who were improperly prohibited from working on either June 24, or 25 or 26, 1992, or all, in an amount equal to what such employees would have earned had they not been prohibited by Carrier from performing service.
3. Carrier shall also restore any benefits which would have accrued to Claimants had they not been prohibited from working on the above dates."

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 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 waived right of appearance at hearing thereon.

In 1988, rail unions which represented approximately 95% of the employees in the railroad industry served Section 6 Notices on the nation's Carriers. These Notices subsequently became subject to national handling. Ultimately, the 1988 Notices proceeded to Presidential Emergency Board Nos. 219, 220, 221 and 222 for resolution. Neither the Carrier nor the Organization was a party to the National negotiations, nor were they joint parties to PEB Nos. 219, 220, 221 or 222. Section 6 Notices served by the International Association of Machinists and Aerospace Workers (IAM) were not resolved by the Presidential Emergency Boards. The IAM was subsequently released by the National Mediation Board and was free to invoke self-help.

At 12:01 A.M. on June 24, 1992, the IAM struck the CSX Corporation. In response, other Carriers bargaining nationally with the IAM terminated operations on that day. Among those Carriers were the Santa Fe and the Southern Pacific railroads.

On June 24, 1992, the Carrier issued a bulletin abolishing 17 clerical positions. On June 24 and 25 Carrier's President issued letters to all employees explaining the interruption of operations. On June 26 all parties to the dispute were required by Public Law 102-306 to resume the status quo as it existed prior to 12:01 A.M., June 24. Employees of the participant Carriers who lost time as a result of the lockout were made whole under the legislation. The dispute before this Board is based on whether the Carrier complied with Rules 5 and 22 of the Agreement when it abolished Clerical positions on June 24.

Careful review of the entire record before the Board indicates that Carrier's letter to its laid-off employees clearly explained in detail why, as a result of the lockout on other Carriers, business on the Gateway Western Railway declined markedly during the period at issue. Accordingly, the Board finds that Carrier fully complied with the provisions of the Agreement, particularly Rule 22 (d).

AWARD

Claim denied.

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O R D E R

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 Third Division

Dated at Chicago, Illinois, this 8th day of June 1995.