

BEFORE AN ARBITRATION COMMITTEE ESTABLISHED
UNDER NEW YORK DOCK (II) EMPLOYEE PROTECTIVE CONDITIONS

In the Matter of Arbitration)
Between)
Brotherhood of Railway Carmen)
And)
Southern Railway Company)

I.C.C. Finance Docket
No. 29455

OPINION AND AWARD

BACKGROUND:

On March 25, 1982, the Interstate Commerce Commission (ICC) approved the coordination of operations of the Norfolk and Western Railway Company (NW) and the Southern Railway Company (SR) and imposed the New York Dock Protective Conditions. The parties to this dispute subsequently agreed upon an Implementing Agreement on May 7, 1982, pursuant to Article I, Section 4, of the New York Dock Conditions, providing a procedure and terms applicable to future transactions covered by such conditions.

On January 17, 1984, the Carrier served notice that certain reconditioning of freight car truck bolster work would be transferred from SR's Coster and Hayne Shops to NW's Roancke Shops.

On February 8, 1985, the Carrier served notice that the repair of certain SR damaged boxcars and hopper cars would be taken from Hayne Shops and assigned to NW's Brewster, Ohio Shop.

On March 15, 1985, notice was served that sixty to seventy of SR's coil steel cars would be taken to NW's Brewster Shop for general repair work rather than the Coster Shop.

On December 17, 1985, the Carrier served notice that certain work would be transferred from SR's Hayne Shop to NW's Brewster and Roanoke Shops; from NW's Roanoke to SR's Hayne Shop; from SR's Coster Shop to NW's Brewster, Roanoke and Norfolk Shops, and from NW's Roanoke Shop to SR's Coster Shop.

Beginning in May 1985 and running through January 1986, certain Carmen stationed at Hayne Shop, who had been furloughed after March 25, 1982, filed for protective benefits under the New York Dock Conditions. After the claims could not be satisfactorily resolved, the parties established this arbitration committee in accordance with Section 11 of the New York Dock Conditions to settle the dispute.

The question at issue is:

Are the following employees entitled to the protective benefits of the New York Dock Conditions as a result of the transfer of certain work from the Southern Railway Company to the Norfolk and Western Railway Company on February 8, 1985, March 15, 1985 and December 17, 1985:

R. M. Lyles	J. R. Jolley	J. W. Genobles
T. Burch	J. K. Miller	M. W. Dean
J. T. Jennings	B. W. Landrum	S. A. Owens
J. W. Jamison	J. L. McIntyre	G. L. Hollis
F. E. Watkins	D. R. Hembree	J. G. Horn
R. D. Lanford	C. Hawkins	D. O. Poteat
R. F. Loflin	L. A. Parker	M. J. Brannon
J. F. Taylor	H. M. Williams	L. G. Smith
S. E. Burnette	G. Melton	C. T. Senn
M. L. Ballenger	R. Hunnicutt	J. S. Parris
F. DeGraffinreid	W. L. Toland	R. Y. Seay

FINDINGS: The Organization, at great length in the record and with considerable vigor before us, contends that the changes in the Claimants employment status came about largely because of the effects of the last three notices cited above. It maintains that the transfer of work, as earlier described, constituted a "transaction" as defined in New York Dock and because of the transactions, the Claimants were deprived of

of work and subsequently furloughed.

The Carrier, also supporting its contentions with numerous exhibits and with considerable ability before this Board, maintains that the Organization has not established that the furloughs in question were the result of a "transaction". It contends that the Claimants were furloughed as a result of a lack of available work on boxcars resulting from a decline in the demand for boxcars that came about because of a decline in the Carrier's business.

After a careful review of the entire record and after consideration of the respective arguments of the parties, we conclude that the claims cannot be sustained. The evidence reveals that certain amounts of work were transferred between SR and NW locations. Given the movements of work to various locations, the employees conclusions that their furloughs came about because of the shifting of work clearly is understandable. Nonetheless, even though understandable, the Organization has failed to provide probative evidence to establish that the transfer of the work from Hayne Shop caused the furloughs of the Carmen who are a party to this claim. On the contrary, the Carrier has shown that there was a significant decline in the use of boxcars (fewer loadings) which had a direct impact on the amount of boxcar maintenance project work at Hayne Shop. Moreover, the Board observes that during 1984 there were over 37,000 surplus boxcars in storage, a number which rose to over 46,000 in 1985. These data provide further substance to the Carrier's contentions that the core reasons for the Claimants' furloughs was a decline in the Carrier's business.

In summary, the Organization has failed to establish a "causal nexus" between the "transactions" and the adverse effect (the furloughs

of the Claimants) in this case. We find sufficient evidence that the furloughs were caused by a reduction of the amount of work available for Carmen at Hayne Shop because of a decline in boxcar business. Accordingly, we must deny the claims.

AWARD

The claim at issue is denied.

G. C. Edwards
G. C. Edwards
Carrier Member

Eckehard Müessig
Eckehard Müessig
Neutral Member

R. P. Wojtowitz
R. P. Wojtowitz
Organization Member

Dated: DECEMBER 14, 1988