COOPERATING RAILWAY LABOR ORGANIZATIONS

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April 8, 1969

Mr. C. L. Dennis
Mr. H. C. Crotty
Mr. A. R. Lowry
Mr. C. J. Chamberlain
Mr. R. W. Smith

SUBJECT: Employees Dissent to Award No. 31
Carrier's Opinion on Award No. 37
Disputes Committe Feb. 7, 1965
Agreement

Dear Sirs and Brothers:

I am enclosing herewith our Dissent to Award No. 31 (Case No. CL-26-E) of Special Board of Adjustment No. 605 established by the February 7, 1965 Agreement which was signed by Referee Rohman on March 11, 1969. We consider the issue involved so important that a Dissent was necessary. We have since decided that we would not Dissent to Award No. 36.

I am also enclosing herewith the opinion of the Carrier members in connection with Award No. 37 (Case No. CL-45-W) of this same Board which was signed on the same date.

Fraternally,

G. E. Leighty

Chairman
Five Cooperating Railway Labor Organizations

Enclosures

cc: L.P. Schoene

WASHINGTON, D. C. - - MARCH 11, 1969

Dr. Murray M. Rohman,
Professor of Industrial Relations,
School of Business,
Texas Christian University,
Fort Worth, Texas 76129

Dear Doctor Rohman:

You were informed at the time Award No. 37 (Case No. CL-45-W) of Special Board of Adjustment No. 605 was signed by you on March 7, 1969, that the Carrier Members of the Special Board would file a separate opinion thereto. The Carrier Members' opinion is attached.

Very truly yours,

M. E. Parks

J. L. Oram

encl.

Copy to -

Messrs.

G. E. Leighty
C. L. Dennis

T. A. Tracy

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES TO DISPUTE) Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees
and
St. Louis-San Francisco Railway Company

QUESTIONS AT ISSUE:

(1) Did the Carrier violate the provisions of the February 7, 1965 Agreement, particularly Article II, Section 1 and Article IV, Section 2 thereof when it terminated the protective status of extra board employes account failure to respond to calls for extra work?

(2) Shall the Carrier now be required to return Employes R. M. Andrews, E. O. Roch, H. M. Morris and J. T. Johnson to the status of protected employes and pay them for all losses sustained due to the Carrier's arbitrary action in removing them from their protected status including all subsequent wage increases from the respective dates they were removed from the protective provisions of the Agreement?

OPINION OF BOARD: The Organization filed the instant claims on behalf of the Claimants contending that the Carrier had improperly terminated their protected status. The determination thereof depends on whether the claimants are considered extra employees or furloughed employees.

In the event they are deemed to be extra employees, then they could lose their protected status by failure to obtain a position available to them in the exercise of seniority rights in accordance with existing rules or agreements, other than a temporary position. See Questions and Answers No. 3 and 4, under the interpretation to Article II, Section 1. However, a furloughed employee is required to respond to a call for extra work in order to preserve his protected status.

In this regard, the Carrier argues that extra boards are not maintained for Organization employees. However, Employes' Exhibit 4 (a), a letter signed by the Division Superintendent is addressed to Mr. E. O. Roch, Extra Clerk-Pensacola, one of the Claimants herein; Employes' Exhibit 4 (c), addressed to the General Chairman and signed by L. J. King, also refers to extra clerk and junior extra clerk. It is, therefore, our considered opinion that the documentation is sufficient to indicate that these Claimants are extra employees.

Award No. 37
Case No. CL-45-W

AWARD

Answer to questions 1 and 2 is in the affirmative.

Murray M. Rohman
Neutral Member

Dated: Washington, D. C.
March 7, 1969

Dissenting Opinion by Carrier Members Jones

AWARD NO. 37
CASE NO. CL-45-W

SEPARATE OPINION OF THE CARRIERS

When the proposed award of the neutral member in this case was submitted to the parties for consideration, the Carrier Members were under the impression from reading the first two paragraphs of the opinion that the neutral member was adopting certain principles with respect to loss of protection of extra men in contrast with furloughed men. More specifically, it was thought that the neutral member was implying that extra men would lose their protective status under Article II, Section 1 only if they failed to obtain a regular assignment, other than a temporary assignment, available to them in the exercise of their seniority and not for failure to respond to calls for extra work; whereas a furloughed employee was required to respond to calls for extra work in order to preserve his protective status.

However, during the discussion of the proposed award, the neutral member made it clear that he was not ruling on the obligations of extra men as against the obligations of furloughed men with respect to accepting calls for extra work. He stated that he was simply determining whether the individuals involved were extra employees or furloughed employees in response to the questions raised in the case - that the language of the opinion should not be considered as ruling on the obligations of extra employees with respect to accepting calls. In view of these clarifying statements, the carriers do not take exception to the first two paragraphs of the opinion.

However, the Carrier Members do take exception to the apparent finding that the claimants are extra employees and not furloughed employees. The claimants were in fact furloughed employees available for and performing extra work. The mere fact that they were referred to as "extra clerks" does not mean that they were not "furloughed" employees. Referring to furloughed employees who are available for and perform extra work as "extra employees" where extra boards are not maintained is a common practice in the industry.

M. E. Parks

J. W. Oram

March 11, 1969