

SPECIAL BOARD OF ADJUSTMENT NO. 917 - Case #1

MEMBERS OF THE BOARD:

C. E. Wheeler
Organisation Member

Shari E. Cohen
Carrier Member

C. A. Peacock
Neutral Member

PARTIES)
TO)
DISPUTE:)
Brotherhood Railway Carman of United States and Canada
Norfolk and Western Railway Company

OTHER APPEARANCES:

Organization

Ray Entler
O. Mier

Carrier

W. L. Allman
G. C. Edwards

QUESTION FOR
ARBITRATION:

Did the Illinois Terminal Railroad Company furlough and dismiss the following employees in anticipation of being merged with the Norfolk and Western Railway Company:

<u>Employee</u>	<u>Date Furloughed</u>
G. R. Sirtak, Carman Apprentice	February 21, 1981
W. Strickland, Carman Apprentice	February 21, 1981
M. Pine, Carman Painter	February 20, 1981
C. Lynch, Carman Apprentice	February 21, 1981
R. Loyd, Carman Apprentice	February 21, 1981
D. Adams, Carman Apprentice	February 21, 1981
M. R. Wheeler, Carman	February 24, 1981
G. Wedner, Carman Apprentice	March 1, 1981
W. K. Hagen, Carman Apprentice	March 14, 1981
K. G. Cole, Carman	May 13, 1981
R. Beilsmith, Carman	May 13, 1981
R. D. Carver, Carman	August 1, 1981

And did the Norfolk and Western Railway Company furlough the following employees in anticipation of merging with the Illinois Terminal Company:

<u>Employee</u>	<u>Date Furloughed</u>
E. H. Flock, Jr., Carman	October 30, 1978
E. C. Dunnavant, Carman	" " "
J. V. Wellmaker, Carman	" " "
R. A. Calascibetta, Carman	" " "
G. L. Campbell, Carman	" " "
P. Winder, Carman	" " "
A. J. Skipper, Carman	" " "
J. S. Whitnell, Carman	" " "
V. J. Rionda, Carman	" " "
J. Coleman, Carman	" " "
R. H. Gerard, Carman	" " "
Kirczma, Carman	" " "
K. D. Lynch, Carman	" " "

If so, should the Norfolk and Western Railway Company be required to compute the test period averages of these employees and apply the benefits set forth in Article I, Sections 5 through 9 of New York Dock conditions, including the elections contained therein.

The agreement establishing this Special Board of Adjustment was signed by the partisan members November 12, 1982. On December 17, 1982 I, C. A. Peacock, was appointed by the National Mediation Board to sit as Neutral Member of SEA NO. 917.

The Board convened on February 3, 1983 in Roanoke, Virginia at which time the partisan members were afforded full opportunity to pursue all arguments relative to their positions. Written submissions had been exchanged by mail as previously agreed in Paragraph G of the parties' November 12, 1982 Agreement.

Background discussion by both parties reflected consensus as to events leading up to the application filed by the Norfolk and Western Railway Company in December of 1980, seeking approval with the Interstate Commerce Commission to acquire the assets and equipment of the Illinois Terminal Railroad. Subsequently, the application for coordination of operations of N&W and IT were approved in Finance Docket No. 29455,

which in part imposed protective conditions for employees commonly referred to as New York Dock II.

Organization argues that carrier was knowledgeable regarding the impending take over long before any official action was instituted for consolidation, and thirteen (13) Carmen were furloughed on October 30, 1978. Further, the IT began furloughing in February, 1981 and continued until twelve (12) additional men were furloughed, "in anticipation of the transaction."

Carrier states that no furloughs were made for any reason other than in the interest of economy and efficiency of operation during rather depressed economic times. Carrier also reminds the Board the IT Railroad had sustained losses over several years in amounts no small carrier could absorb and continue to operate as a viable railroad, a fact well publicized in a variety of trade and financial publications.

The question before this Board is simple. Did Carrier in fact make certain reductions in forces in order to avoid "the protective conditions commonly referred to as New York Dock II for affected employees?"

In considering all the evidence and an in depth study and review of the voluminous exhibits submitted to this Board, the record indicates that the furlough of the claimants was in the course of normal business practices exercised in depressed economic times, and not in anticipation of the transaction.

DECISION: Question is answered in the negative. Denied.

C. E. Wheeler
C. E. Wheeler
Organization Member

Shari E. Cohen
Shari E. Cohen
Carrier Member

C. A. Peacock
C. A. Peacock
Chairman and Neutral Member

February 24 1983.