

SPECIAL BOARD OF ADJUSTMENT NO. 917 - Case #2

MEMBERS OF THE BOARD:

C. E. Wheeler
Organization Member

Shari E. Cohen
Carrier Member

C. A. Peacock
Neutral Member

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

OTHER APPEARANCES:

Organization

Carrier

Ray Entler
O. Mier

W. L. Allman
G. C. Edwards

QUESTION FOR
ARBITRATION:

"Did the Norfolk and Western Railway Company improperly fail to provide the protection afforded by New York Dock conditions to Carmen; R. E. Pound, K. P. Wilderman, A. E. Kirkman, J. W. Bunch, and M. F. Peterson when they were furloughed February 25, 1982? If so, should the Norfolk and Western Railway Company be required to compute the test period averages of the aforementioned Carmen and apply the benefits set forth in Article 1, Section 5 through 9, of New York Dock conditions and the elections contained therein?"

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

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The Board convened on February 3, 1983 in Roanoke, Virginia, at which time the members were afforded full opportunity to pursue all arguments relative to their positions. Written submissions had been exchanged prior, in keeping with the parties', November 12, 1982 Agreement.

Background discussion by the parties indicated agreement in so far as events occurring which led up to the consolidation of facilities. The Carrier (N&W) entered into a coordination agreement with the Illinois Terminal Railroad Company with plans to liquidate certain assets and other principle assets to be purchased by N&W.

Organization's statement of facts reflects in part . . . "application was ultimately approved on or about July 17, 1981. The Commission imposed the protective conditions commonly referred to as New York Dock II for affected employees."

Organization vigorously argues that the five (5) men in question would certainly not have been adversely affected in the absence of the coordination of facilities and the dovetailing of rosters. Therefore, these men should be certified under the protective conditions as set forth in New York Dock II.


Carrier counters by pointing out the men in question were in fact employed when N&W took over on November 7, 1981. While economic signs of weakness continued to plague this and other carriers, it was not until the early part of 1982 this Carrier claims business continually deteriorated to such an extent their Decatur steel plant, a major boxcar facility, was shut down on February 25, 1982. Consequently, ninety-seven (97) Carmen were furloughed, including the five (5) claimants.

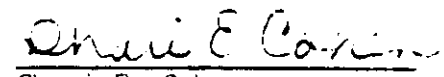
In general, the nation was in the throws of the worst economic times experienced in over a quarter of a century.

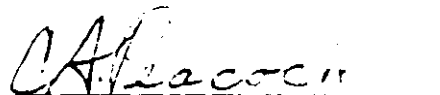
The thrust of the question before this Board is; were the claimants dismissed, or displaced, as a direct result of a "transaction" and not other causes?

Both parties presented prepared arguments and were afforded opportunities of rebuttal. After careful consideration and examination of the exhibits and submissions, the Board concludes the preponderance of evidence in this record supports the Carrier's position.

DECISION: Question answered in the negative. Denied.


C. E. Wheeler
Organization Member


Shari E. Cohen
Carrier Member


C. A. Peacock
Chairman and Neutral Member

February 24 1983