SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES TO THE DISPUTE) Transportation-Communications International Union
and
Western Fruit Express Company
A Subsidiary of Burlington Northern Railroad

QUESTIONS AT ISSUE:

1. Did the Carrier(s) effect a "coordination" as defined in Section 2(a) of the Washington Job Protection Agreement of May 1936 at Lincoln, Nebraska, on January 1, 1986, when the Western Fruit Express Company abolished the Inspector positions and the function of inspecting and servicing perishable shipments was assumed by Burlington Northern Railroad employes without complying with Section 4 of said Protective Agreement?

2. If the answer to the above is in the affirmative, shall the Carrier now be required to apply the appropriate protective provisions of the Washington Job Protective Agreement to the affected employes?

3. Did the Carrier violate the February 7, 1965 Stabilization Agreement when it made an operational and/or organizational change by ceasing operations at Lincoln, Nebraska, without serving the proper notice under Article III of said Stabilization Agreement?

4. If the answer to Question (3) is in the affirmative, shall the Carrier be required to apply the appropriate provisions of the February 7, 1965 Stabilization Agreement?

OPINION OF THE BOARD: The Carrier herein is a wholly owned subsidiary of the Burlington Northern Railroad Company. On December 31, 1985 and January 1, 1986, the Carrier abolished the last three inspector jobs at Lincoln, Nebraska. Claimants are two of the inspectors who went on furloughed status although the Carrier contends that Claimant Watson could have acquired a

job at either Galesburg, Illinois, or Denver, Colorado.

The Organization alleges that the Carrier engaged in an operational or organizational change because subsequent to the abolition of the three inspector positions, it permitted Burlington Northern employees and outside contractors to perform inspection and maintenance work on Carrier equipment at Lincoln and several nearby points.

This Board has carefully reviewed the voluminous record and we find that the Organization has not submitted sufficient evidence proving the Carrier made an organizational or operational change within the meaning of the February 7, 1965 Job Stabilization Agreement. On the contrary, the Carrier presented persuasive evidence that Claimants' jobs were abolished due to a diminution in the amount of inspection work. [See SBA 605, Award No. 370.] The situation reports which the Organization incorporated into the record show that during three months in 1985 (January, July and August), Claimants and the incumbent of the third abolished position conducted 1,534 inspections and yet only 19 pieces (1.2%) of equipment needed servicing. The Organization pointed to isolated instances when a Burlington Northern employee may have made an emergency repair but the record reflects that these emergency inspections occurred even before the three positions were abolished.

Next, although the Carrier argued that we lack jurisdiction to adjudicate a question requiring an interpretation of the

Washington Job Protection Agreement, this Board is empowered to decide if the Carrier and the Burlington Northern undertook a coordination of their facilities or operations within the meaning of the Washington Job Protection Agreement. However, for the reasons set forth in the preceding paragraph, the record does not contain sufficient evidence that the Carrier and the Burlington Northern pooled car inspection and maintenance operations. The Carrier, acting alone, eliminated a substantial preponderance of the work previous performed by Claimants. Some of the inspections are now conducted at other points on the Carrier's property and, aside from the isolated emergency repairs (which were effected both before and after Claimants' jobs were abolished), Burlington Northern employees are not inspecting Carrier equipment at Lincoln. In sum, the Board has not been presented with any evidence of a joint venture involving the Carrier and the Burlington Northern.

While this Board finds that the Carrier engaged in neither a coordination nor an operational change, the Board lacks authority to consider or decide the Organization's charge that the Carrier violated the Scope Rule of the Working Agreement.

Since we are denying this claim on its merits, this Board need not address the Carrier's contentions that the Organization did not timely appeal this claim to this Board and that neither Claimant was a protected employee under the February 7, 1965 Job Stabilization Agreement.

AWARD

1. The Answer to Question No. 1 is No.

2. Question No. 2 is dismissed.

3. The Answer to Question No. 3 is No.

4. Question No. 4 is moot.

Dated: January 22, 1990

John B. LaRocco
Neutral Member