File: 124-641-1642 SPL
346 SMW

Public Law Board No. 3884

Parties to Dispute

Sheet Metal Workers International Association

vs

Illinois Central Gulf Railroad

Case No. 1

Award No. 1

STATEMENT OF CLAIM

1. That the Carrier violated the current agreement, established practice, provisions and rules of the Sheet Metal Workers' Section "B" Agreement when the Carrier failed and refused to give proper and sufficient notice to Sheet Metal Worker Water Service Repairman, J. R. Sholar, when they abolished his position on March 28, 1983.

2. That the Carrier be ordered to additionally compensate Sheet Metal Worker J. R. Sholar in the amount of 32 hours at pro rata rate for the time lost due to the improper advance written notice of at least five (5) working days from April 4 through April 8, before the abolishment of his position.

FINDINGS

On April 11, 1983 the Assistant Directing General Chairman of Organization, Roanoake, Virginia filed a claim on behalf of the Claimant on the grounds that the Carrier was in violation of Agreement Rules (A) and (B). The claim was based on the contention that when the Carrier abolished the Claimant's position of Water Service Repairman, Gang 3206 at Fulton, Kentucky, it did not give the proper "...five day notice...as required by the Agreement". The claim was denied by the Engineering Superintendent on April 21, 1983 after which it was appealed by the Organization up to and including the highest Carrier officer designted to hear such before it was docketed

before this Public Law Board for final adjudication.

The Rule at bar reads, in pertinent part, as follows.

Rule 29 (A): When the force is reduced, seniority as per Rule 32 will govern, the men affected to take the rate of the job to which they are assigned. Five working days' notice will be given the men affected before reduction is made, and list will be furnished the local committee. This will not apply during temporary work afforded employees while forces are furloughed.

Rule 29 (B): Not less than five working days' notice shall be given before a position is abolished.

The record shows that the Claimant was verbally advised on March 28, 1983 that his position would be abolished at the end of his tour of duty on April 4, 1983. This verbal notice was followed by a written notice dated also March 28, 1983 which, according to the Organization and record evidence was postmarked March 31, 1983 and which, according to the Claimant, he did not receive until April 2, 1983. The written notice stated the following:

> At the end of your tour of duty, Monday, April 4, 1983 your position as a Water Service Repairman, Gang 3206, Fulton, Kentucky, Mid-South Division, is abolished.

The instant dispute centers on the following issue: does the Rule at bar require the Carrier to issue an employee a written notice of position abolishment five days before this action is taken, or does it suffice, as the Carrier herein did, to verbally notify an employee of its contemplated actions five days before the action is taken.

A basic rule of contract interpretation is one which recognizes that parties to an Agreement, for reasons best understood by them, frame their intent in either general or specific language. An analysis of the language of Rule 29 at both (A) and (B) shows that the parties used general language when framing their understanding about the time-frame agreed upon for notification of a position encumbent prior to abolishment of that position. The language cited above does not

state one way or the other how an employee is to be notified by the Carrier of such future action, it simply states that an employee must be notified. In short, the language of the Rule simply states that not less "...than five working days' notice shall be given" prior to position abolishment. Given the facts of the case as presented to this Board there is no evidence of a substantial nature to warrant the conclusion that the Carrier was in violation of contract when it took the actions it did in late March and early April of 1983 when the Claimant's position was abolished. To rule herein that this Rule as written implies that the Carrier must give written notice five days in advance of the abolishment of a position would be a gain, for the Organization, by means of the arbitration process, which it had not been able to obtain at the bargaining table. It is not uncommon for Agreements in the railroad industry to contain specific language relative to advance notice with respect to job abolishments. Such is not, however, the case with the Agreement here at bar. Decisions in arbitral forums in the railroad industry have consistently stated that a Board such as this must interpret contracts as written (See Third Division 16868; Fourth Division 1723 inter alia.). On the basis of the record before it, this Board cannot sustain the claim.

AWARD

Claim denied.

Edward L. Suntrup, Neutral Member

J. S. Gibbins, Carrier Member

K. C. Flansburg, Employee Member

Date: October 21, 1986