

Award No. 10
Docket No. 10

PUBLIC LAW BOARD NO. 2452

PARTIES Brotherhood of Maintenance of Way Employees
TO
DISPUTE: and
Western Maryland Railway Co.

STATEMENT Claim on behalf of the following employees for five (5)
OF CLAIM: days' pay each account Carrier's failure to recall
them properly at the end of the Coal Miners Strike:

J. H. Snyder	Trackman	W. L. Mayhew	Trackman
E. W. Morris	Chauffeur	D. H. Shaffer	Trackman
C. L. Conrad	Trackman	R. W. Wilfong	Trackman
C. L. Nelson	Trackman	R. M. Cost	Trackman
T. R. Fitzwater	Trackman	C. H. Merritt	Trackman
H. L. Broughton	Chauffeur	J. A. Newlon	Trackman
W. W. Currence	Trackman	T. L. Bodkins	Trackman
W. E. Morgan	Trackman	R. W. Hinchman	Trackman
R. B. Hoffman	Trackman		

FINDINGS: By reason of the Agreement dated June 14, 1979, and upon the whole record and all the evidence, the Board finds that the parties herein are employee and carrier within the meaning of the Railway Labor Act, as amended, and that it has jurisdiction.

The conference issue raised here is comparable to the one raised in Docket No. 2 and resolved in Award No. 2. For the reasons stated in Award No. 2, the issue is resolved in favor of the Carrier.

This is a companion case to the claim in Docket No. 6 resolved in Award No. 6. Because of the strike by the United Mine Workers which commenced at midnight on December 6, 1977, Claimants were furloughed. Their claim for compensation in the absence of five days of advance notice was denied in Award No. 6.

Here, Claimants are asking for five days pay because the contract ending the strike was ratified on March 24, 1978, and operation of the mines resumed on March 27, 1978, but the Carrier did not recall the Claimants until April 3, 1978. Employees contend that Claimants should have been recalled on March 27 and not on April 3, 1978.

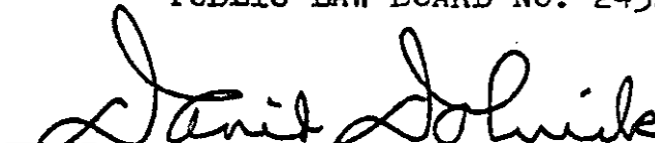
Employees have cited no rule, nor does one exist, which requires the Carrier to recall employees furloughed under Rule 4 immediately at the end of the strike and resumption of work. Rule 4 contains no such requirement. That rule does not deal with the termination of the emergency under which the Claimants were furloughed. When a furloughed employee is recalled depends on the need of the Carrier. The emergency in Rule 4 authorizes a furlough without advance notice. After that is done, Rule 4 no longer applies to the furloughed employees. Their rights are governed by Rule 3(d) and other applicable seniority rules, all of which are not related to Rule 4.


For the reasons stated in Award No. 6, and upon this record, the Board finds that the Carrier did not violate the Agreement and that there is no merit to the claim.

AWARD

Claim denied.

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DAVID DOLNICK, Chairman and Neutral Member


W. C. COMISKEY, Carrier Member


WILLIAM E. LA RUE, Employee Member

DATED: April 16, 1980