

PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1016

AWARD NO. 53

Case No. 53

Referee Fred Blackwell

Carrier Member: J. H. Burton

Labor Member: S. V. Powers

**PARTIES TO DISPUTE:**

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

vs.

CONSOLIDATED RAIL CORPORATION

**STATEMENT OF CLAIM:**

Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it abolished the vehicle operator position held by Mr. A. B. Pense without four (4) working days advance notice and without promptly posting a bulletin identifying the position to be abolished (System Docket CR-3544).
- (2) As a consequence of the aforesaid violation, Mr. A. B. Pense shall be allowed thirty (30) hours of pay at the vehicle operators' rate.

**FINDINGS:**

*Upon the whole record and all the evidence, and after hearing on September 6, 1990, in the Carrier's Office, Philadelphia, Pennsylvania, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted by agreement and has jurisdiction of the parties and of the subject matter.*

**DECISION:**

Claim Denied.

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**OPINION**

The herein claim is based on allegations that the Carrier failed to comply with the advance notice provisions of Rule 6 of the Schedule Agreement when the Claimant's assigned position as Vehicle Operator on Track Department Gang I&C-2, Columbus, Ohio, was abolished on November 9, 1987.

A claim letter dated November 25, 1987 (Organization Exhibit A-2) states that on the date of the abolishment, Mr. D. C. Clifford, the Claimant's Supervisor, handed the Claimant an abolishment notice dated and effective November 9, 1987.

The Organization states that the Claimant was not given the requisite four (4) working days advance written notice of the abolishment of his position, which is required by Rule 6 of the Schedule Agreement (Organization's submission, page 3).

The Carrier asserts that on November 3, 1987, Supervisor Clifford gave the Claimant verbal notice that his position would be abolished effective November 9, 1987, and that said verbal notice fulfilled the requirements of Rule 6.

\* \* \* \* \*

The Board finds on the record as a whole, including the submissions presented by the parties in support of their positions in the case, that the claim must be denied for want of adequate record support.

The Board finds that verbal notice satisfies the advance notice requirements of Rule 6 of the Schedule Agreement, and that the advance notice need not be in writing as asserted by the Organization. The Board further finds that the confronting record shows

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that on November 3, 1987, Supervisor Clifford gave the Claimant verbal notice that his position would be abolished on November 9, 1987. Thus, the time criteria of the notice requirements were also satisfied.

The Board will make no ruling on the Organization's assertions that the Carrier also violated the Rule 6 requirement that a "*bulletin shall be promptly posted identifying the positions to be abolished*". The claim letter dated November 25, 1987, made no reference to the bulletin posting criteria of Rule 6 and consequently, the Board considers the Organization's assertions concerning the bulletin to be outside the scope of the claim to be determined in this case.

In view of the foregoing, and based on the record as a whole, the claim will be denied.

**AWARD:**

The record as a whole does not support the claim. Accordingly, the claim is hereby denied.

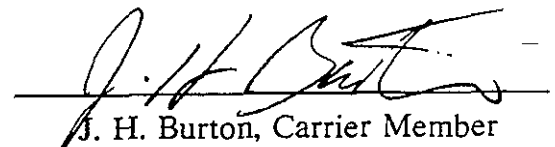
BY ORDER OF SPECIAL BOARD OF ADJUSTMENT NO. 1016



Fred Blackwell, Neutral Member



S. V. Powers, Labor Member



J. H. Burton, Carrier Member

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