

SPECIAL BOARD OF ADJUSTMENT NO. 541

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

ERIE LACKAWANNA RAILWAY COMPANY

STATEMENT OF CLAIM:

1. The Carrier violated the effective Agreement by failing to give a 5 working days advance notice when a force reduction occurred on November 22, 1965.

2. Track Department Employees C. F. Roberts, W. L. Chamberlain and H. F. Boughton be now compensated for four (4) days pay, at their respective hourly rate of pay due to their not being given a proper notice as referred to in Part 1 of this claim.

FINDINGS:

Claimants were recalled to service on November 9, 1965, to renew ties damaged by a train derailment. On November 15, 1965, they were notified that their work would be completed on Friday, November 19, 1965, and that they would be laid off at the close of their tour on that date. However, because of inclement weather, it was necessary to retain them to work an additional day, November 22.

Petitioner maintains that, under applicable agreements, Claimants were entitled to advance notice of no less than 5 working days before their layoff and that they are entitled to 4 days pay since they only received 1 day notice of their layoff on November 22.

In our view, the 5 days notice accorded Claimants on November 15 satisfied the requirements of Article III of the June 5, 1962, National Agreement that "not less than five (5) working days' advance notice" must be given before a reduction in force. That notice was not cancelled by virtue of the fact that the employees gained one extra day of work because of weather conditions. We do not believe that the parties to the Agreement intended the technical and artificial interpretation required for a holding to the contrary.

The Claimants, as a matter of substance, received no less than 5 days notice of layoff, and we will deny the claim.

AWARD:

Claim denied.

Adopted at New York, N. Y., August 13, 1969.

/s/ Harold M. Weston

---

HAROLD M. WESTON, NEUTRAL

/s/ A. J. Cunningham

---

ORGANIZATION MEMBER

/s/ R. A. Carroll

---

CARRIER MEMBER