

SPECIAL BOARD OF ADJUSTMENT NO. 570
ESTABLISHED UNDER AGREEMENT OF SEPTEMBER 25, 1964

Parties to System Federation No. 6, Railway Employees' Department,
Dispute: AFL-CIO (Carmen)

And

Chicago, Rock Island & Pacific Railroad Company

Dispute: That under the Agreement of September 25, 1964, the carrier improperly dealt with and thereby damaged Carman Painter Pete Castagna when on November 30, 1964, a caboose program was transferred from Cedar Rapids, Iowa, and Pete Castagna was subsequently furloughed on April 22, 1965.

Findings: The carrier maintained a caboose repair program at Cedar Rapids, Iowa. Starting in October, 1964, this program was transferred to Council Bluffs, Iowa, and the transfer was completed in the beginning of December, 1964.

The claimant, Pete Castagna, was employed as a carman painter at the Cedar Rapids caboose repair program. His seniority date was July 10, 1935. Prior to the above indicated transfer, his duties consisted substantially of painting cabooses, inside and outside, as well as of restenciling them. After the completion of the transfer, said work has been performed by a carman painter or painters whose positions were newly established at Council Bluffs (see: organization's exhibit I). As a result of the transfer, little painting work was left for the claimant at Cedar Rapids. Pursuant to a bulletin, dated April 15, 1965, he was furloughed, effective as of April 22, 1965.

He filed the instant claim in which he contended that the carrier failed to give him 60-day advance, written notice of his furlough as prescribed in Article I of the September 25, 1964, Agreement (hereinafter referred to as the "Agreement"). He asked for compensation at his regular rate of pay for 54 days. He also requested to be awarded the protective benefits as set forth in said Article I. The carrier denied the claim.

Pertinent Provisions of the Agreement:

"Article I, Section 2: The protective benefits of the Washington Job Protection Agreement of May, 1936, shall be applicable...with respect to employees who are deprived of employment...as a result of any of the following changes in the operations of this individual carrier:
a. Transfer of work..."

"Article I, Section 3: An employee shall not be regarded as deprived of employment... in case of ... reductions in forces due to... a decline in a Carrier's business..."

"Article I, Section 4: The carrier shall give at least sixty (60) days ...written notice of the abolition of jobs as a result of changes in operations for any of the reasons set forth in Section 2 hereof..."

1. This case turns on the question of whether the claimant's furlough was caused by a transfer of work within the purview of Article I, Section 2(a) as contended by him, or by a reduction in forces due to a decline in the carrier's business, as asserted by it. For the reasons hereinafter stated, we are of the opinion that the claimant's contention is justified and that the carrier's assertion lacks merit.

A critical examination of the evidence on the record considered as a whole has convinced us that the painting of the cabooses and the restencilling thereof which was formerly performed by the claimant at Cedar Rapids has, for all practical purposes, been performed by another carman painter or painters at Council Bluffs after the transfer was completed. Thus, it cannot validly be said that said work was discontinued due to a decline in the carrier's business. It was merely transferred from Cedar Rapids to Council Bluffs. It is true that several months elapsed between the transfer of the painting work and the Claimant's furlough. But this is immaterial. The undeniable fact remains that the work in question was actually transferred to Council Bluffs and has been performed there since about December, 1964.

In summary, we hold that the carrier's action constituted a "transfer of work" within the contemplation of Article I, Section 2 (a) of the Agreement. It follows that the carrier was obligated to give the 60-day advance notice as prescribed in Article I, Section 4 of the Agreement and that the claimant is entitled to the protective benefits of the Washington Job Protection Agreement of May, 1936, in accordance with Article I, Section 2 thereof.

2. The record shows that the carrier gave the claimant seven (7) days advance notice of his furlough. Hence, he is entitled to compensation at his regular rate of pay for 53 days, less any compensation which he may have earned in other gainful employment during said period.

As pointed out hereinbefore, he is also entitled to the protective benefits of the Washington Job Protection Agreement as set forth in Article I of the Agreement.

AWARD

Claim sustained in accordance with the above Findings.

ADOPTED AT CHICAGO, ILLINOIS, THIS 25 DAY OF JANUARY, 1966.

We dissent
W. B. Macmill
Carrier Members

Charles W. Arnold
Referee

Paul C. W. Karnell
Wm. H. Kason
Employee Members