

SPECIAL BOARD OF ADJUSTMENT NO. 924

Award No. 113
Docket No. 113

PARTIES: Brotherhood of Maintenance of Way Employees

TO :

DISPUTE: Chicago and North Western Transportation Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that:

- (1) The Carrier violated the Agreement when it failed to give at least five (5) working days' notice to Claimant Connick, et al., prior to the abolishment of their positions at the close of work on May 3, 1985. [Organization File 4LF-2072 T; Carrier File 81-85-182]
- (2) The Claimants shall be compensated at their applicable straight time rate of pay for eight (8) hours each per day for each day from May 6, 1985, through May 10, 1985, or in the alternative, Claimants shall be compensated the difference in pay if employed at a lower rated position May 6 through May 19, 1985."

FINDINGS:

Claimants D.J. Connick, E.P. Dominguez, R.A. Winter, J.A. Bliley, D.D. Jensen, R.P. Harkrider, and D.E. Rice were employed by Carrier at its Track Reclamation Center in Council Bluffs, Iowa. On May 3, 1985, Claimants were notified that their positions were abolished as of the end of work that day. The Organization thereafter filed a claim on Claimants' behalf, contending that Carrier did not give Claimants proper advance notice that their positions were being abolished.

This Board has reviewed the evidence in this case, and we find that the Organization has presented sufficient evidence to support its claim that the Carrier violated Rule 12 by failing to give the Organization five (5) days' notice of the abolishment of the positions. There was no such emergency as is contemplated in Section (c) of the rule. The Carrier, by its own admission, was aware of the stricter crane boom safety standards on April 26, 1985, and, yet, took the immediate "emergency" action on May 3, 1985. The Carrier had the

time to give the employees the five (5) day notice in that regard.

Once this Board has found that a claim should be sustained, we next turn our attention to the type of relief sought by the Organization. The record indicates that all but Claimant Dominquez lost no pay as a result of the abolishment. Therefore, although the claim must be sustained, monetary relief is only ordered for Claimant Dominquez.

Award:

Claim sustained in part. The Carrier violated the rule in question. However, monetary relief is only ordered for Claimant Dominquez.



Neutral Member



Carrier Member



Organization Member

Date: May 18, 1988