

PROCEEDINGS BEFORE SPECIAL BOARD OF ADJUSTMENT NO. 1016

AWARD NO. 55

Case No. 55

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, effective November 30, 1987, it abolished the positions on Gang TK-221 without proper advance notice as contemplated by Rule 6 (System Docket CR-3563).
- (2) As a consequence of the aforesaid violation, the employees assigned to Gang TK-221 at the time of the violation shall each be allowed forty (40) hours of pay at their respective pro rata rates.

**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:**

FRED BLACKWELL  
ATTORNEY AT LAW

Claim Denied.

P.O. BOX 6095  
WEST COLUMBIA,  
S.C. 29171  
(803) 791-8086

OPINION

This claim involves thirty-eight (38) members of Gang TK-221, Pittsburgh Seniority District, whose jobs were abolished effective at the end of their tours of duty, Monday, November 30, 1987. The Organization alleges that in notifying the Claimants of the abolition of their jobs, the Carrier failed to comply with the Rule 6 requirement that notice of abolition of position shall be given not less than five (5) days in advance.

The Organization asserts that the only notice of job abolishment given to the Claimants was a verbal notice given on November 30, 1987.

The Carrier asserts that oral notice of the job abolishment was given to each Claimant on Friday, November 20, 1987.

\* \* \* \* \*

The Carrier's Division Engineer, Pittsburgh Division, said in a January 4, 1988 letter to the Organization that his office had researched the claim and found that oral notice had been given to each Claimant on Friday, November 20, 1987, of the job abolishment effective November 30, 1987.

A written statement by one of the Claimants reads as follows (Employee's Exhibit B, page 3 of 7 pages):

*"I Jeff Cypher did not see the abolishment notice a week before I was laid off, from Dominic Vezza Tie Gang. I received a verbal notice last day work. November 30, 1987."*

The claim statement itself, filed on December 17, 1987, by Mr. Sean D. Ferris,

FRED BLACKWELL  
ATTORNEY AT LAW

P.O. BOX 6095  
WEST COLUMBIA,  
S.C. 29171  
(803) 791-8086

District Chairman BMWE, Pittsburgh Seniority District, states that Mr. Ferris visited the location of Gang TK-221 on November 30, 1987, and found that no bulletin notification of abolitionment was available at the Gang's location.

The two statements in support of the claim, the claim statement and the statement by Claimant Cypher, make no reference at all to the events of November 20, 1987, and contain no assertion that a verbal notice of abolitionment was not given to the Claimants on that date. These statements address only the date of November 30, 1987, and consequently, such statements have no tendency to rebut the Division Engineer's assertion in his January 4, 1988 letter, that oral notice of the abolitionment of the positions of Gang TK-221 was given on November 20, 1987.

In view of the foregoing, and based on the record as a whole, the claim will be denied for lack of adequate evidentiary support.

**AWARD:**

The record as a whole does not support the claim.

Accordingly, the claim is hereby denied.

11

BY ORDER OF SPECIAL BOARD OF ADJUSTMENT NO. 1016

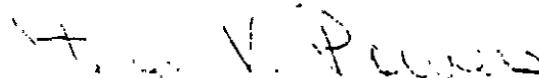
FRED BLACKWELL  
ATTORNEY AT LAW

P.O. BOX 6095  
WEST COLUMBIA,  
S.C. 29171  
(803) 791-8086



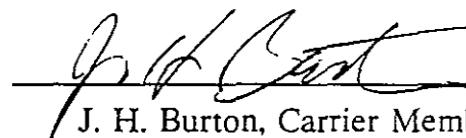
Fred Blackwell

Fred Blackwell, Neutral Member



S. V. Powers

S. V. Powers, Labor Member



J. H. Burton

J. H. Burton, Carrier Member

Executed on 4/18, 1993

Conrail\1016\55-55.106

FRED BLACKWELL  
ATTORNEY AT LAW

P.O. BOX 6095  
WEST COLUMBIA,  
S.C. 29171  
(803) 791-8086