

AWARD NO. 8

ITEM: 104

SPECIAL BOARD OF ADJUSTMENT NO. 541

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

AND

ERIE-LACKAWANNA RAILROAD COMPANY

STATEMENT OF CLAIM:

"1. The Carrier violated the effective agreement by failing to give a five-day advance notice to Trackman Chester Weeks, Belmont, N. Y., prior to his being furloughed in a force reduction in March, 1963.

"2. Claimant Trackman Chester Weeks be now reimbursed at his respective rate of pay for the three days of March 13, 14, and 15 of 1963, account of this violation of the agreement referred to."

FINDINGS:

Claimant was recalled from furlough and worked February 24 to March 12, 1963, when he was laid off on two-days' notice. The Organization contended that he should have received five days' notice. Rule 5 (b) provides that two working days' notice will be given employees but that this requirement does not apply to men called for work in an emergency. Article III of the June 5, 1962 National Agreement increased the two-day notice, when applicable, to five days, but does not alter that part of Rule 5 (b) that concerns "men called for work in an emergency."

The success or failure of this claim must depend, therefore, upon whether or not claimant was "called for work in an emergency." There is no doubt that Claimant's assignments from February 24 to March 7, 1963, were of an emergency nature since they were part of Carrier's effort to meet situations resulting from a violent snow storm and two derailments. However, in our opinion, the work performed between March 8 and 12, 1963 - assisting regular section men in shimming tracks to correct conditions caused by severe winter temperatures, - did not involve an emergency. In that regard, it is compelling that during the March 8 to 12 period, weekend rest days and normal hours of duty were observed.

Claimant was called for the track shimming work on March 7 and since no emergency was involved, he was entitled to five days' notice before layoff. The Claim accordingly will be sustained.

AWARD:

Claim sustained.

Dated at New York, N. Y., this 25th day of August, 1964.

/s/ Harold M. Weston
HAROLD M. WESTON, REFEREE

/s/ Arthur J. Cunningham
ORGANIZATION MEMBER

/s/ R. A. Carroll
CARRIER MEMBER