

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12824
Docket No. 12759
95-2-93-2-122

The Second Division consisted of the regular members and in addition Referee James E. Mason when award was rendered.

PARTIES TO DISPUTE: (Sheet Metal Workers' International
(Association
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(CSX Transportation, Inc.

STATEMENT OF CLAIM:

- "1. That Sheet Metal Workers S.A. Howell, G.C. Dyal, H.H. Plasky, Jr., A. Roberts, D.H. Peacock, J.R. Hayes and D.G. Steverson are entitled to protective benefits as provided for under the September 25, 1964, Mediation Agreement.
2. That the Carrier be instructed to certify claimants. That claimants be brought up to date on benefits, and continue throughout their protective period."

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The Claimants in this case were employed at Carrier's Waycross, Georgia, Locomotive Shops. The claim outlined supra was initially submitted to Special Board of Adjustment No. 570 for resolution. By agreement of the parties, the case was withdrawn from SBA No. 570 and is now properly before this Board for final determination.

The fact situation, the contentions and arguments, the basic agreement provisions and much of the evidence in this case is, either in totality or in substantial part, exactly the same as the arguments, contentions, etc. which have already been reviewed and ruled upon by three (3) prior arbitration Awards -- two (2) of which involved this same Carrier and Organization.. The third Award involved the same Carrier and same location as the instant case, but involved the Machinist's Organization.

In this regard, attention is directed to the following:

"Award in the Matter of an Arbitration between CSX Transportation, Inc. and Sheet Metal Workers, Finance Docket Nos. 28905 (sub 1) and 29916, Arbitrator Dana Eischen, May 22, 1990.

New York Dock Award Involving CSX Transportation Company and Sheet Metal Workers, Arbitrator Martin F. Scheinman, December 19, 1990.

Award in the Matter of Arbitration between CSX Transportation, Inc. and International Association of Machinists, Article I, Section II, New York Dock Conditions, Arbitrator Hugh G. Duffy, August 3, 1993."

Inasmuch as all of the issues which are raised in this case have already been examined and ruled upon in the above referenced awards, nothing would be gained by burdening this award with a repetition of the reasons and explanations for rejection of the issues. Rather, the Board, by reference, hereby incorporates the decisions of those learned Arbitrators in this award. The principle of stare decisis is clearly applicable in this situation. The parties and locations are the same or substantially similar. The issues are the same or substantially similar. The Agreements are the same or substantially similar. The evidence is the same or substantially similar. A matter, such as this one, once decided by Boards of appropriate jurisdiction, is finally decided and should not be disturbed.

The Organization has failed to meet its burden of proof in this case. There has been no causal nexus demonstrated between the transfer of employees and positions to Waycross and the subsequent furlough of employees at Waycross. These furloughs have not been shown to be any different from the cyclical furloughs which have previously occurred among these employees.

On the basis of the relative convincing force of evidence -- and especially on the basis of the previous precedential determinations which have been rendered in this regard -- the Board concludes that the Claimants are not entitled to protective benefits during the period of furlough here in dispute. The claim for such benefits is, therefore, denied.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division .

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Dated at Chicago, Illinois, this 26th day of January 1995.