

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

ORDER OF RAILWAY CONDUCTORS

CHICAGO & NORTH WESTERN RAILWAY COMPANY

STATEMENT OF CLAIM: "Claim of E. E. Pelz and H. V. Armour, Chefs, for differential in earnings as dining car chefs and what they would have earned as dining car stewards, beginning May 10, 1939, and subsequent dates, based on provisions of Rule 22, Dining Car Stewards and Chefs Agreement."

EMPLOYES' STATEMENT OF FACTS: "E. E. Pelz and H. V. Armour, Chefs, applied to carrier officers for position as dining car stewards, which was declined notwithstanding the fact that on May 10, 1939, the dining car department officers hired two new stewards named A. Cook and J. Arntz, resulting in depriving Pelz and Armour of earnings and right to work as stewards ceded to them under Rule in agreement governing wages and working conditions of dining car stewards, chefs and cooks on C&NW Railway."

POSITION OF EMPLOYES: "The introduction of current agreement effective March 1, 1938, governing wages and working conditions of stewards, chefs and cooks reads:

'AGREEMENT
between
CHICAGO AND NORTH WESTERN
RAILWAY COMPANY
and
CHICAGO AND NORTH WESTERN LOCAL
BROTHERHOOD OF RAILWAY DINING CAR STEWARDS,
CHEFS AND COOKS'

and Rule 22 contained in this agreement is as follows:

'PROMOTION—Rule 22. (a) Promotion will be based on ability, merit, and seniority; ability and merit being sufficient, seniority will prevail, the officer in charge of dining cars to be the judge.

(b) Employees declining promotion will not lose seniority in the class in which employed.

(c) Employees accepting promotion will be allowed a reasonable time in which to qualify, and failing will be returned to their former position without loss of seniority.

There is in existence an agreement between the parties bearing effective date of March 1, 1938.

OPINION OF BOARD: The record in this case shows that separate seniority rosters, one for stewards and another for chef-cooks, are posted as required by Rule 20 of the governing agreement; it also discloses that stewards and cooks do not have seniority interchangeable one with the other.

The claim as submitted in this case is not sustained by the rules of the governing agreement.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the claim as submitted in this case is not sustained by the rules of the governing agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 26th day of January, 1940.