

Award No. 10309

Docket No. MS-12701

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

JOSEPH P. MURPHY

**NEW YORK CENTRAL RAILROAD
(Eastern District Boston & Albany Division)**

STATEMENT OF CLAIM: Claimant, Joseph P. Murphy (hereinafter called Claimant) desires an award of this honorable Board requiring the employer, the New York Central Railroad (hereinafter called "Carrier") to:

a. Pay over to him a day's pay for each and every day's work of which he has been deprived due to the bad faith and breach of contract of said Carrier.

b. To restore his name to the seniority roster of his district and to give him notice of said restoration and a letter of apology for its unwarranted and illegal act in removing his name from said roster.

c. Pay over to employe his vacation pay of three weeks wages for the year 1959 earned during the year 1958, which carrier has declined and refused to do in violation of the vacation agreement expressed in the applicable rules and rates of pay agreement.

OPINION OF THE BOARD: The record shows that Claimant was displaced by a senior employe on September 29, 1958. He made a written displacement on a clerk's position in the Trainmaster's Office at Worcester. However, he never reported for such assignment nor did he request a leave of absence, thereby placing himself on an unauthorized leave of absence. Claimant advised the Trainmaster that he was going into business, operating a tavern known as "Ted's Restaurant and Tavern", on Sacandaga Lake, Mayfield, N. Y.

There is no dispute between the Carrier and Organization regarding the interpretation of the agreement between the parties in this case, and that the claim before this Division is without merit thereunder. It therefore must be denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and Employe involved in this dispute are respectively Carrier and Employe 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 agreement was not violated.

AWARD

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 26th day of January 1962.