Award No. 11117
Docket No. DC-10765

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

Phillip G. Sheridan, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES UNION LOCAL 849

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employes Union, Local 849, on the property of Chicago, Rock Island and Pacific Railroad Company for and on behalf of Ernest Crofton that his seniority date as Cafe Car Chef be corrected and established by Carrier on Seniority roster of Cafe Car Chefs in accordance with provisions of current agreement.

EMPLOYES' STATEMENT OF FACTS: On February 26, 1958, Organization wrote Carrier's General Superintendent Dining Car Department protesting the cafe car chef seniority date accorded claimant on seniority roster of that classification of employees. This protest was made within 30 days of the date of posting of the seniority roster of that classification which was posted by Carrier on February 15, 1958.

Receiving no reply from Carrier's General Superintendent Dining Car Department, Organization again requested a conference on June 23, 1958. In that letter Organization pointed out to Carrier that claimant first commenced working for Carrier in August of 1936 as a cafe car chef. The present seniority roster of chef cooks accords claimant a seniority date of October 13, 1942 and a seniority date of May 24, 1947 on the roster of cafe car chefs.

Organization pointed out the further facts that when claimant entered the service of the Carrier's Dining Car Department in August 1936, he was immediately promoted to the position of cafe car chef. This service was interrupted in 1941 when claimant was disciplined by being taken out of service. Shortly thereafter the claimant was drafted into the American Armed Forces and about a year later he was reinstated by Carrier and promoted to chef cook having a seniority date in that classification, as noted above, as of October 13, 1942.

Under date of July 7, 1958, Carrier's General Superintendent Dining Cars advised claimant that the matter would be handled by a representative of Carrier's Director of Personnel and Labor Relations, the chief operating officer designated on the property of Carrier to handle such matters. Accordingly on August 6, 1958, a conference was held between Organization and Carrier's Director of Personnel and Labor Relations. Under date of August 7, 1958 the

In Award 12782, for example, the Board said:

". . . the fact that the roster rating assigned to Mr. Kohler in 1936 stood unchallenged until May 4, 1952 can be accepted only in the light that Mr. Kohler slept on his rights.

After careful consideration of all the evidence contained in the record, the division finds no justification for making a change at this late date in the roster standings of Mr. Kohler and Mr. Juhas." 12782 without referee.

No protest having been received for more than ten years through the issuance of ten or more seniority rosters, Rule 9 (f) quoted above must be enforced with the result that claim must be declined.

It is apparent that the inclusion of Rule 9 (f) in the agreement was written and accepted by both parties to provide for the prompt and orderly correction of possible errors in the annual seniority rosters. To now sustain the claim of Crofton would be to write Rule 9 (f) out of the existing agreement.

For the above reasons, employes' claim in behalf of Claimant Crofton should be denied in its entirety and Carrier respectfully requests your Honorable Board to so hold.

OPINION OF BOARD: The Claimant has been carried on the seniority roster in compliance with Rule 9.

	Date Entered Service	**Seniority Date**
"Ernest Crofton	October 13, 1942	Oct. 13, 1942—DC Chef"

A roster posted in January 1, 1948, listed the Claimant as having Cafe Car Chef Seniority from May 1947, and such a seniority listing was continued until the filing of this claim.

The Organization protested the January 1, 1948 Roster because the Claimant was reinstated in 1942 and the roster should have shown the time of his entry and all lower employment classifications pursuant to Rule 9c.

"Rule 9, **SENIORITY.**

* * * * *

"(c) Seniority will be restricted to each classification of employes covered by this agreement except that employes assigned as waiters-in-charge, barber-porters, club car porters, parlor car porters, lounge car porters or chair car attendants, will retain their seniority in the group from which promoted, but will not be subject to displacement under seniority rules except by senior employes of these respective groups. Cooks promoted to higher positions in their classification will retain and continue to accumulate seniority in the lower grower group from which promoted, and date in such lower group will be not later than the date they established seniority in a higher group. Senior employes in service will be given preference in filling vacancies in these positions as per Section (b).

"(f) A seniority roster of all employes in each classification who have been in the service six (6) months or more, showing names and

dates of entering service or class, will be posted for inspection of employes interested, and copy furnished the local chairman. The seniority roster shall be open for correction for a period of thirty (30) days from date of posting, such corrections to be made on presentation of proof of error by employe or his representative. Except to correct typographical errors, seniority dates not protested within thirty (30) days following time of posting of bulletin shall be considered as permanently established."

We believe that Rule 9c is not before us because of the nature of the claim now before this Board, but assuming that it is, we would have to hold that its provisions are limited to the provisions of Rule 9f. See Award 8709.

The records of this dispute reveal that no protest was filed against the January 1, 1948 roster until February 1958. Thus ten (10) years have elapsed before placing the Carrier on notice that there was an alleged defect in the Roster.

Seniority rights are valuable proprietary rights of the Employes concerned. Rule 9f provides the procedures and methods one may utilize in the event his seniority position is incorrectly posted. Rule 9f also provides a time limit within which one must act if his seniority position is incorrectly posted.

In this dispute, the Claimant has procrastinated too long. Under Rule 9f, he is prohibited from seeking the correction he now desires. To permit a correction in the roster at this late date would destroy its stability, and thus eliminate the purpose for which it was created.

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 Employes involved in this dispute are respectively Carrier and Employes 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 11th day of February 1963.