

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

JESSE M. JOHNSON

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: I was employed by the Missouri Pacific Railroad Company from February 2, 1951 until April 26, 1959. I was dismissed for failure to protect my assignment and being absent without permission April 16, 1959. The Carrier does not disagree with my proof that I was wrongfully arrested in Monroe, Louisiana, April 16, 1959, and I do not think that being wrongfully arrested is grounds for dismissal.

On April 20, 1957, I phoned the Missouri Pacific Railroad Yard Office and asked the crew caller to let me talk to the yardmaster, Mr. Nichols, and Crew caller, John Fowler, told me that Mr. Nichols, Yardmaster, was out in the Railroad yard and I asked Mr. Fowler to lay me off. I had to see a doctor at once and would be unable to work the morning of April 21, 1957. Mr. Fowler told me that I was off and that was six hours before I was to report for duty at 6:00 A.M., April 21, 1957. Mr. Fowler went to the office of Dr. J. B. Bate, M.D. of McGhee, Arkansas on the morning of April 21, 1957.

OPINION OF BOARD: The record reveals that Claimant did not appeal his claim to this Board within the nine months provided in Rule 43(c) reading, here pertinent, as follows:

" * * All claims or grievances involved in a decision by the highest designated officer shall be barred unless within 9 months from the date of said officer's decision proceedings are instituted by the employee or his duly authorized representative before the appropriate division of the National Railroad Adjustment Board . . ."*

Under these circumstances, the Board has no alternative than to dismiss the Employee's claim.

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 the Employee involved in this dispute are respectively Carrier and Employee 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 is barred.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1963.