

Award No. 11841
Docket No. DC-10864

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Martin I. Rose, Referee

PARTIES TO DISPUTE:

**JOINT COUNCIL OF DINING CAR EMPLOYES UNION,
LOCAL 849**

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees Union, Local 849 on the property of Chicago, Rock Island and Pacific Railroad Company for and on behalf of Fletcher Moon that Carrier correct chef cook's seniority roster to show claimant's seniority date as chef cook as of October 29, 1925; Carrier's failure to comply with Organization's request on behalf of claimant being in violation of current agreement.

EMPLOYES' STATEMENT OF FACTS: On July 16, 1943, Carrier's then Superintendent of Dining Cars, T. D. Wickham, under Carrier's File No. 6023 wrote to Organization's District Chairman at Little Rock, Arkansas, then W. J. Keller, as follows:

"Chicago, July 16, 1943
"File 6023

"Mr. W. J. Keller
1214 West 19th Street
Little Rock, Arkansas

"Your letter of May 14, 1943, with reference to seniority date of Chef Fletcher Moon, Charles Hurt, Roosevelt Sinclair, Jewel Hunter, John Aaron, and Paul Bryant. In checking records in this office, the following seniority dates have been established:

"Dining Car Chef

Charles Hurt	Aug.	29, 1925
Fletcher Moon	Oct.	9, 1925
Roosevelt Sinclair	Aug.	19, 1931
Jewel Hunter	May	1, 1942

"Cafe Car Chef

John Aaron	June	20, 1942
------------	------	----------

"Third Cook

Paul Bryant	June	20, 1942
-------------	------	----------

of error by employe or his representative, such error will be corrected within that time.

It is apparent that the claimant had opportunity to protest his seniority years ago when it was posted on a seniority list not to his liking. However, he failed to do so until December 3, 1957 (Carrier's Exhibit "C"). Even at that date the employes failed to prove that claimant was entitled to a seniority date of October 9, 1925 as dining car chef.

We submit claimant is entitled to a seniority date of October 9, 1925 as a cafe car chef and is so carried on that seniority list. (Carrier's Exhibit "B").

General Chairman C. L. Patrick's letter of December 3, 1957 implies that on July 16, 1943 the seniority date of the claimant had been corrected by the Superintendent of Dining Cars. As evidence, General Chairman Patrick furnished the undersigned copy of the letter dated July 16, 1943. (Carrier's Exhibit "D").

The Carrier is unable to locate in its files such a letter or a letter dated May 14, 1943, which was referred to in the July 16, 1943 letter. Nor can the Carrier determine why former Superintendent of Dining Cars T. D. Wickham granted such a request. It is odd that no other protest was made from 1944 to 1957 when the seniority lists failed to show the claimant as having a seniority date of October 9, 1925.

The Employes' Statement of Claim is confusing because they are now seeking a seniority date of October 29, 1925 for the claimant. While this matter was being handled on the property the employes were requesting a seniority date of October 9, 1925.

We submit on basis of the facts in this case there was no violation of the agreement nor have the employes produced any evidence that claimant is entitled to a seniority date of October 29, 1925 as a dining car chef.

We respectfully request denial of the claim.

It is hereby affirmed that all of the foregoing is, in substance, known to the organization's representatives.

(Exhibits not reproduced).

OPINION OF BOARD: The record shows that claimant waited approximately thirteen years to question the correctness of his seniority date on the seniority roster of Dining Car Chefs. During this lengthy period, he permitted other employes on the same seniority roster and the Carrier to rely on the seniority date which he now disputes. For these reasons, we conclude that the claim concerning Claimant's seniority standing on that seniority roster was no longer timely within the meaning of Rule 9(f) of the applicable Agreement. See Awards 2303, 3978, 8709.

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 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 15th day of November, 1963.