



Award No. 15639
Docket No. CL-16158

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

George S. Ives, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES**

LOS ANGELES UNION PASSENGER TERMINAL

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5944) that:

(a) The Los Angeles Union Passenger Terminal violated the current Clerks' Agreement between the parties when, on April 1, 1964, it dismissed Mr. Albino C. Garcia from service without just cause; and,

(b) The Los Angeles Union Passenger Terminal shall now be required to allow Mr. Albino C. Garcia all wage loss suffered during the period he stood unjustly dismissed from service, April 1, 1964 through November 3, 1965.

(c) Amount of compensation due to be determined by joint check between the parties.

OPINION OF BOARD: Claimant was dismissed from the service of the Los Angeles Union Passenger Terminal on April 1, 1964, following an investigation of charges that he had been absent from his usual calling place on March 1, 6, 7, 8, 9, 10, 14, 15 and 18, 1964, in violation of Rule 21 of the Rules and Regulations of the Los Angeles Union Passenger Terminal. Petitioner contends that Claimant was in furlough status as of February 1, 1964, pursuant to a letter from his Supervisory Officer, dated March 6, 1964, and was not required to hold himself available for daily calls. Petitioner avers that the Terminal was obligated to recall Claimant to service under the provisions of Rule 36 (f), of the Agreement, which it did not do.

Carrier contends that the Claimant was not in a furloughed status at any time involved in the claim as he was an employee assigned to the Terminal's extra list on the dates of claim.

The record discloses that certain Carriers, including the Atchison, Topeka and Santa Fe Railway Company, and Petitioner's General Chairmen on such railroads are parties to an Agreement, which provides for an extra board at the Terminal. Section 8 of said Agreement, as revised January 1, 1959, in part, provides that the extra list may be composed of unassigned

or furloughed employes from appropriate parent line rosters. Claimant occupied a dual status as a furloughed employe of the Atchison, Topeka and Santa Fe Railroad Company and as an employe of the Terminal assigned to the extra list.

An examination of the letter he received from his Supervisory Officer, dated March 6, 1964, reveals that he was apprised of his rights in the Santa Fe Coast Lines Hospital Association as a furloughed employe, which resulted from his not performing compensated service during three consecutive months. Similar form letters were sent to five other employes on the Terminal extra list on the same date as Claimant. Moreover, Claimant had received similar letters in previous years and subsequently responded to calls from the Terminal Extra List without receipt of a recall letter from the Terminal pursuant to Rule 36 (f) of the Agreement between the parties.

There is no probative evidence to substantiate Petitioner's contention that Claimant was misled by the apparent ambiguity as to the applicability of the furlough notice. Claimant admitted during the investigation that he was on the Terminal extra list and had held himself available for service before and after receipt of the letter from his Supervisor, dated March 6, 1964. Furthermore, Claimant appears to have missed one call covered by the investigation on March 1, 1964, which preceded the disputed notice from his Supervisor.

In view of the foregoing, we must conclude that the disputed letter of March 6, 1964 did not remove Claimant from the Terminal extra list as of February 1, 1964, nor misled Claimant concerning his responsibilities. Therefore, we will deny the 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 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 16th day of June 1967.

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