



Award No. 15848  
Docket No. DC-16738

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Nathan Engelstein, Referee

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**PARTIES TO DISPUTE:**

**BROTHERHOOD OF RAILROAD TRAINMEN**

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC  
RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Request for time lost in behalf of Dining Car Steward W. H. Deacon for two dates, December 30 and 31, 1964, when not properly notified that he could have performed service on Trains 5 and 6 on the two dates of claim.

**EMPLOYES' STATEMENT OF FACTS:** The Brotherhood of Railroad Trainmen (hereinafter referred to as the Union) has an Agreement with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (hereinafter referred to as the Carrier) governing rates of pay and working conditions of Dining Car Stewards in accordance with the Railway Labor Act. The claimant Dining Car Steward W. H. Deacon is employed by the Carrier as a steward and has a seniority date of June 19, 1959, and has seven (7) years of seniority in the capacity of a dining car steward and still holds seniority as such.

This dispute represents a claim for time lost in behalf of Dining Car Steward W. H. Deacon for two dates, December 30 and 31, 1964, when not properly called and used for service. The claimant Dining Car Steward W. H. Deacon was performing service on Trains 105-106 and had arrived at the Chicago Union Station, the terminus of his assignment at 5:00 P.M. on December 29, 1964. A vacancy had developed on Trains 5 and 6 for December 30 and 31, 1964, and the Carrier representative failed to notify Dining Car Steward W. H. Deacon of this vacancy. The Carrier called and used a junior steward on the vacancy of Trains 5 and 6 for the dates of December 30 and 31, 1964, which caused Dining Car Steward W. H. Deacon to lose earnings.

The Union submitted claims to the Carrier in a letter dated February 12, 1965 as follows:

**"BROTHERHOOD OF RAILROAD TRAINMEN  
General Grievance Committee**

February 12, 1965  
File: 2359 (192)

S. W. Amour, Asst. to V.P .  
C. M. St. P. & P. R.R. Co.  
374 Union Station Building  
Chicago, Illinois

Pacific Northwest, train service was interrupted and Steward W. H. Deacon did not leave Portland on Train No. 106, the return leg, until December 27, 1964. He finally arrived Chicago 5:00 P. M., December 29, 1964, which as your Board will note, is five hours after the sign-out period.

Inasmuch as W. H. Deacon was on the road at 10:00 A. M. to 11:59 A. M. on December 29, 1964 and not available for service during the sign-out period, the next available steward, W. H. Walton, was called for the vacancy on Train No. 5 for December 30, 1964 and the return trip, Train No. 6 on December 31, 1964.

Claimant W. H. Deacon contended that he should have been called for Train No. 5 on December 30, 1964. Hence this claim before your board.

Attached as Carrier's Exhibit A please find copy of letter to BRT General Chairman E. L. Dirks dated March 26, 1965.

(Exhibits not reproduced.)

**OPINION OF BOARD:** The evidence of record indicates that the Carrier's highest officer, Assistant to Vice President, declined the claim under date of August 3, 1965. The record further discloses proceedings before this Board were not instituted until January 16, 1967. Rule 19(d) contains a one year time limit which obviously has been disregarded. We are left with no alternative other than to dismiss the claim.

**FINDINGS:** The Third Division of the Adjustment Board, upon the whole record and all 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 13th day of October 1967.