

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22179
Docket Number CL-21935

Herbert L. Marx, Jr., Referee

(Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station **Employees**

PARTIES TO DISPUTE: (
(The Western Pacific Railroad Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
GL-8328, that:

"1. The Western Pacific Railroad Company violated Rule 40 (a) of the Agreement when it arbitrarily reduced Mr. W. M. Sessions from the Guaranteed Extra Board with only two (2) days notice rather than the required five (5) days advance notice.

2. The Western Pacific Railroad Company shall now be required to compensate Mr. W. M. Sessions three (3) days pay for violation of Rule 40 (a)."

OPINION OF BOARD: Claimant, a **employee** on Carrier's Guaranteed Extra Board, was notified on November 10, 1975, that he would be reduced from the Board on November 12, 1975. After this occurred, Claimant **alleged** violation of Rule 40(a) and claimed three days' **pay** thereunder. **Rule** 40(a) reads as folio& in part:

"In reducing forces seniority rights shall govern. Not less than five (5) working days' advance notice will be given employees affected in reduction of forces or abolishing positions, . . . "

Carrier makes a general defense that Guaranteed Extra Board personnel are governed by **Rule** 31-5, which encompasses a number of detailed, special provisions applicable only to Guaranteed Extra Board employees. Carrier claims it is these rule provisions which govern Guaranteed Extra Board employees and thzt the more general rule, **Rule** 40(a), is inapplicable to them.

The Board does not agree. Clearly a special rule applicable to a particular class of **employees** and/or a particular situation or location can be said to modify a general rule, if the former specifically and unequivocally is in conflict with the latter. The Board finds no such conflict, however, in regard to force reduction as between **Rule 40(a)** and **Rule 31½**. Nothing concerning notice of reduction is found in **Rule 31½**. In view of this, and although **the** Carrier argues an opposite view, the general rule applies here.

Carrier cites **Rule 31½**, Section E (2) which reads in part:

"**Employees** in service more than sixty (60) days who are recalled to an extra board will be retained on the extra board not less than twenty-one (21) calendar days from date recalled . . . "

Carrier states that its **only** obligation is to retain Guaranteed Extra Board **employees** for 21 days and thereafter **may** reduce them at **will**. But **Rule 31½** Section E (2) is not in conflict with Rule 40(a). For example, applying both rules in harmony, Carrier may give "not less than five (5) working days advance notice" of reduction providing **that** the date of reduction **would** be "not less than **twenty-one** (21) calendar days **from** date recalled."

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 **Employees** involved in this dispute are respectively Carrier and **Employees** 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 violated.

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Docket Number CL-21935

Page 3

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: *A.W. Paulos*
Executive Secretary

Dated at Chicago, Illinois, this 31st day of August 1978.

