

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Award No. 28257
Docket No. CL-27529
90-3-86-3-798

The Third Division consisted of the regular members and in addition Referee Rodney E. Dennis when award was rendered.

PARTIES TO DISPUTE: (Transportation Communications International Union
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood
(GL-10138) that:

(a) Carrier violated the provisions of the current Clerks' Agreement at Brownwood, on January 1, 1984, when it removed the name of B. F. Weathermon from the Northern Division Station Department Seniority Roster, and

(b) Ms. Weathermon's name shall now be added back to the Seniority Roster with a seniority date of April 19, 1980, the seniority date she had when her name was removed."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant was, at the time of the action that gave rise to this dispute, an off-in-force-reduction employee. Claimant had an initial seniority date of April 9, 1980, on the Northern Division Station Department Seniority Roster. She last worked in October 1982. When the Seniority Roster for the Northern Division Station Department for 1984 was published (the latter part of January 1984), Claimant's name was not on the Roster. Carrier contends it removed Claimant's name from the Roster because she failed to notify the proper Carrier officials of her current address, as required by Rule 17-B of the Schedule Agreement. Rule 17-B reads as follows:

"RULE 17-B

FILING CURRENT ADDRESS

- 17-B. Employees who become off-in-force-reduction must promptly advise their employing officer of their current address (unless their current address is on file) and promptly advise of subsequent changes therein. Employees off-in-force reduction, who do not perform service under this Agreement during a calendar year, must file their current address with their employing officer during the month of December of such calendar year and failure to file in December shall result in forfeiture of all seniority rights."

The Organization claims, however, that Claimant did properly notify Carrier each year of her current address, dated as required. It pointed to letters dated December 4, 1983, and December 10, 1984, written by Claimant to a Senior Clerk in the Superintendent's office. The Organization also contends that Carrier violated the Agreement by not making available to Claimant a hearing under the discipline rule of the Agreement. The Organization finally argued that the Claim was timely filed. The date the Claimant learned her name was not on the seniority list is the date the clock began to run on the time limit for filing a claim. The 60-day limit was met.

This Board has reviewed the record and weighed the evidence presented. It is compelled to conclude that the Organization has not carried its burden in this instance and has not demonstrated that Claimant did in fact meet the notification requirement of Article 17-B. Carrier contends it did not receive in the Superintendent's office any letter from Claimant advising it of her current address. The Organization has not proved otherwise.

The Organization argues that in spite of other shortcomings in the case, Carrier has no right to remove Claimant from the Roster without a hearing. That argument is not persuasive. This Board has on numerous occasions decided that Rules such as 17-B are self-executing and cannot be enlarged upon by this Board. A hearing in this instance is not required by Agreement.

After a review of the whole record, this Board is compelled to conclude that Claimant did not meet the requirements of Rule 17-B and that removal of her name from the Seniority Roster was appropriate.


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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dover - Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1990.