

Award No. 6460
Docket No. DC-6797

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILROAD TRAINMEN
CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of Chicago, Milwaukee, St. Paul & Pacific Dining Car Steward C. E. Iden for any and all earnings lost because he has been disqualified to perform service on the Olympian-Hiawatha Trains, Nos. 15 and 16, time claimed from February 4, 1953 when Superintendent M. P. Ayars of the Dining Car Department would not permit Steward Iden to exercise his seniority and displace Steward P. H. Jones on Trains Nos. 15 and 16.

EMPLOYEES' STATEMENT OF FACTS: Dining Car Steward C. E. Iden has a seniority date of September 1, 1945. Rule 11 of the Schedule of Rules governing working conditions of Stewards reads as follows:

"(a) Stewards who are continued in service one hundred and twenty (120) calendar days will establish seniority as of the time and date actual work performed when last entering the service. During this one hundred and twenty (120) day period a steward may be notified in writing, copy to General Chairman, that his employment would terminate.

"(b) New positions or vacancies known to be of more than thirty (30) days' duration, will be promptly bulletined for a period of ten (10) days. Stewards making application will be assigned in accordance with seniority and qualifications and so designated by bulletin. Such positions or vacancies shall be filled temporarily from extra board pending an assignment.

"(c) When forces are reduced seniority will govern, if qualified. When forces are increased, stewards will be returned to service in accordance with their seniority and qualifications, provided, they file their name and address with the proper officer at the time of force reduction and advise promptly of any change in address and return to service within ten (10) days after being notified by mail or telegram sent to their last address given; failure in this respect will terminate seniority.

"(e) Within the months of January and July of each year seniority list of stewards will be posted at Chicago and Tacoma, copy furnished General Chairman and Local Chairman, which will be open for correction for a period of sixty (60) days from date of issue on proof of error by the steward or his duly accredited representative. If seniority date is not protested within sixty (60) days after the initial appearance of his name on the roster, such date shall there-

OPINION OF BOARD: Upon the discontinuance, on January 24, 1953, of Dining Car Service on Trains 17 and 18, between Chicago, Illinois, and Tacoma, Washington, and the consequent abolishment of Steward assignments on those trains effective that date, the claimant Steward, who had been regularly assigned thereto, made his last trip thereon on January 10, took vacation until January 28, and thereafter, from February 1 to February 5, operated on Steward assignment on Trains 7-24 and 107-108 on which he had exercised displacement rights prior to taking off on vacation. On February 4, claimant requested displacement rights on Trains 15 and 16 to be effective February 15, but his request was denied because of alleged lack of necessary qualifications to operate on the higher class Hiawatha trains handling considerably greater dining car business than had been handled on trains on which he had previously operated. He laid off February 5 and was subsequently displaced from Trains 7-24 and 107-108 effective February 9. He reported for work on March 23, and was again declined the right to displace on Trains 15 and 16. He then elected to work from the extra board, and has done so since.

The investigation record does not support Carrier's disqualification of claimant to operate on its higher class Hiawatha trains; therefore, such disqualification should be removed, he should be permitted to displace junior Steward on Trains 15 and 16, and he should be allowed what he would have earned on Trains 15 and 16, to the extent he was available for such service, less his earnings for service which he performed from the extra board from March 23, 1953 when he first marked up on it. He is not entitled to compensation for any time lost prior to March 23, as any such loss was incident to his voluntarily laying off. See Award 3345.

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

That both parties to this dispute waived oral hearing thereon;

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

The investigation record does not support the disqualification imposed on claimant by Carrier.

AWARD

Claim sustained to the extent outlined in the foregoing Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 29th day of January, 1954.