

Award No. 12314
Docket No. MS-12510

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

MATTIE Q. ROBERTS, PETITIONER

UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of Mattie Q. Roberts, Outfit Manager on the Union Pacific Railroad Company that —

(1) The carrier is in violation of the agreement governing rules, wages and working conditions of employees of the classes in Boarding Outfits, when on or about October 28, 1958, and continuing each working day thereafter, it permitted an employee or employees with less seniority than herself to perform services as Outfit Manager without first recalling her to perform such services for which she was then and now is qualified to perform; and

(2) Mattie Q. Roberts be compensated an amount equivalent to a day's pay for each day that services as Outfit Manager have been performed by employees with less seniority than she, commencing October 28, 1958, and continuing thereafter each day until the violation is corrected.

OPINION OF BOARD: Claimant in this case is an unmarried (widow) female employee holding seniority on the Boarding Outfit employees' roster, and at the time the claim arose, was in a furloughed status. The basis of her claim is that a male employee junior to her was recalled to service on October 28, 1958, to fill a position as boarding outfit manager for an extra gang. Under these circumstances, the right of Claimant as a furloughed employee to be recalled to service and assigned to a given position was governed by Rules 10(a) and 15(a) of the Agreement between the parties, providing as follows:

Rule 10 provides as follows:

"Rule 10. Furloughed Employees.

(a) Furloughed employees will be recalled to the service in accordance with their seniority dates, for available positions for which they are qualified."

Rule 15 provides as follows:

"Rule 15. Assignment to Positions.

(a) Positions included in this Part II of this agreement will not be bulletined. Employees will be assigned to new positions or vacancies in accordance with their seniority, fitness and ability. Fitness and ability being sufficient, seniority shall prevail. The Superintendent Outfit Service shall be the judge as to fitness and ability, subject to appeal to the Manager, Dining Car and Hotel Department, who will consider appeals in conference with the General Chairman, at which the employee may be present, if desired. Final decision shall rest with the Manager." (Emphasis ours.)

In this case, the Superintendent of Outfit Service had determined that Claimant did not have the proper qualifications and fitness for the type of position to which a junior employee was assigned. When the matter was appealed to the Manager, Dining Car and Hotel Department, Claimant was offered the opportunity to participate in the conference concerning her qualifications and fitness for such positions, but she specifically declined to do so. At this conference, which Claimant chose not to attend, the Manager, Dining Car and Hotel Service, and the Organization's General Chairman both agreed that Claimant did not have the proper qualifications and fitness for the type of position which she claimed (Carrier's Exhibit J), and Claimant was so advised. From a review of the record in this case, we cannot find any justification for overruling the considered judgment of both the Carrier's officers and the Organization's General Chairman with respect to the qualifications of Claimant for the type of position involved.

Under these particular circumstances, Claimant has not established that she was entitled to be recalled from furlough and assigned to the type of position herein involved. Her claims are, therefore, denied.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 6th day of March 1964.