

Award No. 14862
Docket No. MS-15639

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

George S. Ives, Referee

PARTIES TO DISPUTE:

JAMES R. CUMBY

FORT WORTH AND DENVER RAILWAY COMPANY

STATEMENT OF CLAIM: For more than sixteen (16) years claimant was employed in the Dining Car Service of the Carrier and had been upgraded to the position of Waiter-in-charge, a position he had held for more than ten (10) years. On February 21, 1958, he was upgraded and assigned the position of Steward and his seniority as a Steward commenced on said date. Shortly after he was up-graded and after he had served as Steward he was replaced by a man with no experience and re-assigned as Waiter-in-charge.

OPINION OF BOARD: Claimant's regular position in Carrier's dining car service is Waiter-in-Charge with seniority dates of June 12, 1943 as waiter and September 1, 1948 as Waiter-in-Charge. On February 18, 1958, Claimant was temporarily assigned to work as a steward and performed assignments in that capacity between February 19 and 22, 1958. Claimant was thereafter returned to service in his regular position as a Waiter-in-Charge. Claimant now seeks to invoke seniority as a steward allegedly accrued during the seven year interval between his service as a relief steward and the date of his application filed with Carrier on February 8, 1965.

The record discloses that Claimant failed to protest under the applicable Rule of the controlling Agreement between Carrier and the Brotherhood of Railroad Trainmen, the duly authorized representative of stewards, when his name was omitted from the Stewards roster posted in July, 1958. Rule 17 (d) provides as follows:

"(d) Seniority roster showing name and proper dating of each steward will be posted in agreed upon places accessible to all stewards affected. The roster will be revised and posted in January and July of each year and, unless written protest is made within sixty (60) days of date of posting, dates will not thereafter be changed, except to correct typographical errors. Copy of seniority roster shall be furnished to General Chairman and Local Chairman representing the stewards."

Moreover, Claimant did not object to Carrier's hiring other employes as stewards subsequent to February 1958, or raise any question regarding the status of his seniority as a steward at any time prior to February 8, 1965. During this lengthy period, he permitted other employes and the Carrier to rely on the seniority roster which had never included his name since his

service in 1958. Under the circumstances of this case and the applicable time limitations contained in the Agreement between the parties, we must conclude that the Claim concerning Claimant's seniority standing as a steward is no longer timely. (Awards 8709, 11841 and 12297.)

Accordingly, the Claim will be denied.

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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of October 1966.