

Award No. 15517
Docket No. CL-14782

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Claude S. Woody, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

HOUSTON BELT & TERMINAL RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5540) that:

(1) The Carrier violated the Clerks' Agreement when on November 5, 1962, it failed to assign Mr. C. L. Shepherd to position of Relief position No. 685. Also that,

(2) C. L. Shepherd's seniority date in Group 1, District 4, be advanced to November 5, 1962. Also that,

(3) C. L. Shepherd be allowed difference in pay between Mail & Baggage Porter position and Relief position No. 685 beginning November 5, 1962 and ending January 14, 1963, account Carrier failed to handle claim within the time limits provided in the rules of our Agreement. Also that,

(4) C. L. Shepherd be allowed difference in pay between Mail & Baggage Porter position and Relief position No. 685, each day beginning January 15, 1963 and ending May 28, 1963, account Relief position No. 685 assigned to Fred R. Hutchinson who was a new employee, having failed to file his name and address as required by Rule 19-c of our Agreement, therefore, had forfeited his seniority in District No. 4, Group 1.

EMPLOYEES' STATEMENT OF FACTS: There seems to be two questions to be resolved in settlement of this claim. The first is the matter of Claimant not being advised within 60 days from date of claim that claim was being disallowed. The second question being the matter of Mr. F. Hutchinson not having filed his name and address as required under Rule 19 (d), thus holding no seniority rights at the time he bid for Relief position No. 685.

On October 30, 1962, Bulletin No. 71 was issued advertising vacancy on Relief position No. 685, a position in Seniority District 4, Group 1. Bulletin No. 71-A, November 5, 1962 assigned Fred R. Hutchison to Relief position No. 685. Bids were received from Fred R. Hutchinson and C. L. Shepherd.

Routine personnel matters in Districts 4 and 6 since January 1, 1962 have been handled by the Stationmaster for the mail and baggage porters and by the Ticket Agent for the ticket office personnel, with files being maintained by the stenographer-clerk in the Office of the Stationmaster.

The letter from Hutchinson to Trainmaster Walker was lodged in the files in the Stationmaster's Office.

Shepherd wrote Trainmaster Walker November 7, 1962, filing claim — carried as Exhibit No. 1 in the Employees' submission. This claim was denied by Mr. Walker in a letter dated November 20, 1962 — Carrier's Exhibit A.

On January 12, 1963, Shepherd wrote Mr. Walker "inducing" Rule 29 of the Agreement — carried as Exhibit No. 2 of the Employees' submission. This was again declined by Mr. Walker in a letter January 14, 1963 — Carrier's Exhibit B.

Then on January 19, 1963, Shepherd again wrote Mr. Walker (Employees' Exhibit No. 4), advising that he had not received Mr. Walker's letter of November 20, 1962.

It has never been the practice here to hand-deliver or to use Special Delivery service in the mailing of routine correspondence such as was involved here, and there is no explanation as to why Shepherd did not receive the letter dated November 20, 1962.

Nevertheless, Hutchinson, as a furloughed employe in District No. 4, was properly assigned to Relief Position No. 685 as of November 5, 1962.

(Exhibits not reproduced.)

OPINION OF BOARD: Rule 29 (b-1), of the agreement between the parties, requires Carrier to give whoever filed the claim (the employe, or his representative) written notice of disallowance of the claim, with reasons for same, within sixty days from the filing date of the claim. In the instant case, there is no evidence of delivery or receipt of this notice. It is the responsibility of Carrier to ensure receipt thereof. See Award 14354 (Ives).

Under Rule 19(c), a furloughed employe is required to file his name and address, in writing, both with Carrier and the Local Chairman, if his seniority is to be preserved. Relief Position No. 685 was awarded to an employe who failed to comply with this requirement.

Based upon our consideration of the entire record, the claim will be sustained.

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 Carrier violated the Agreement.

AWARD

Claim sustained.

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

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

Dated at Chicago, Illinois, this 21st day of April 1967.