



Award Number 17537

Docket Number MS-18039

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul C. Dugan, Referee

PARTIES TO DISPUTE:

L. H. COX

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY—DINING CAR DEPARTMENT—

STATEMENT OF CLAIM: This is to serve notice of intention to file ex parte submission 30 days from date this notice is given regarding the following:

Subject—Change of residence without proper consideration of men and families involved. Disregard for Job Protection Agreement, National Stabilization Agreement of February 7, 1965, Joint Council of Dining Car Employees, of which Local 351 is affiliated. Articles III under Section 2, Article V and Section 9 of the Washington Job Protection Agreement were not applied in this case. Section 2 of Article III states that an employee must be given at least 90 days written notice where change of residence is required.

In May, 1968, the ten #2 Waiters on the Santa Fe Railroad Co. San Francisco Chief trains #2-1, Richmond to Chicago, were arbitrarily notified that present operating schedule would be abolished as of May 20, 1968. We were further notified by Bulletin No. 108, dated May 9, 1968, that "We are now accepting bids to fill ten Waiters' vacancies, Position No. 2, on the San Francisco Chief, Trains Nos. 1-2, Chicago to Richmond. Successful bidders to be assigned beginning May 20, 1968. Class "A" rates."

Having no choice in the matter, nor time to consider any alternatives, each of the No. 2 Waiters had to bid for the Chicago to Richmond, California, run, trains Nos. 1-2, in order to keep their jobs and continue to provide for their families.

Since we have been abruptly uprooted from our homes, wives and children, and no provisions have been made in Chicago, according to Section 2 of Article III, where an employee might accept such arrangement or accept a separation allowance according to schedule of Section 9 of Washington Job Protection Agreement, we serve this notice of intention.

The ten #2 Waiters on the San Francisco Chief train who are involved are:

H. C. Lee
Henry Kinnard
L. C. Cox
L. H. Cox
William L. Burnett

A. C. Middlebrook
Suggs Lewis
James E. Armstrong
Everett Cambbell
Oliver Jones

OPINION OF BOARD: The record clearly shows that the claim the Petitioner is attempting to assert before this Board was not handled on the property of the Carrier in accordance with the provisions of the applicable collective bargaining agreement and as required by Section 3, First (i) of the Railway Labor Act and Circular No. 1 of the National Railroad Adjustment Board. Therefore, the claim is barred from consideration by the Division and will be dismissed.

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 claim is barred.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of October 1969.