

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19297
Docket Number MS-19524

Joseph E. Cole, Referee

(David P. Weatherby

PARTIES TO DISPUTE: (

(Union Pacific Railroad Company

STATEMENT OF CLAIM: This is to serve notice, as required by the rules of the National Railroad Adjustment Board, of my intention to file an ex parte submission on July 17, 1971 covering an unadjusted dispute between me and the Union Pacific Railroad Company involving the question:

Five Percent (5%) pay increase retroactive to January 1, 1970. I was employed with the said railroad for the period January 1, 1970 through May 31, 1970 and have as of this date been unsuccessful in obtaining this pay increase.

OPINION OF BOARD: Claimant herein alleges he was improperly denied retroactive pay under the National Mediation Agreement of February 25, 1971.

The record reveals that Claimant voluntarily terminated his employment relations with the Carrier on May 31, 1970.

Article 1, Section 1(i) of the February 25, 1971 Agreement provides:

"(i) Coverage -

All employees who had an employment relationship after December 31, 1969 shall receive the amounts to which they are entitled under this Section 1 regardless of whether they are now in the employ of the carrier except persons who prior to December 11, 1970 have voluntarily left the service of the carrier other than to retire or who have failed to respond to a call-back to service to which they were obligated to respond under the Rules Agreement. Overtime hours will be computed in accordance with individual schedules for all overtime hours paid for. (Emphasis supplied)"

The Board must apply the Agreement as written and, under the clear and unambiguous terms of Article 1, Section 1 (i), we find that Claimant did not meet the criteria for receipt of the retroactive pay which he claims. See Awards 19004 and 19006.

We need not discuss other issues advanced by the Carrier since we have decided the merits of the claim against the Claimant.

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.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST:

E. A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1972.