

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 19572
Docket Number DC-19352

William M. Edgett, Referee

PARTIES TO DISPUTE: (Joint Council of Dining Car Employees Local 465
(
(Union Pacific Railroad Company (Eastern District)

STATEMENT OF CLAIM: (a) That the Superintendent of the Dining Car Department, Omaha District violated section (d) of the Extra Board Rule, when he refused to call the employee and inform him that the Extra Board was exhausted and that he was the next up for rotation.

(b) That the Union Pacific Railroad shall pay Dining Car Waiter Herbert L. Childs the amount of \$156 deducted from his compensation for the month of October, 1970.

OPINION OF BOARD: On October 16, 1970 Carrier called claimant for duty as a relief waiter at about 9:00 p.m. Carrier reached someone at one of the telephone numbers claimant had given it and was told that he was not there but an attempt would be made to locate him. At about 10:55 p.m. Carrier was advised that the attempt to locate claimant had not been successful. Another furloughed waiter was contacted and he covered the assignment.

Claimant was a fully protected employee under the February 7, 1965 Mediation Agreement. He was furloughed at the time of the call and was not assigned to the extra board.

We are not called upon here to apply or interpret the terms of the Mediation Agreement. The question presented to the Board by this claim is limited to whether Carrier was required by the terms of the Extra Board Rule to give claimant advance notice that he was subject to call. The Organization has based its contention that such notice is required upon Section (d) of the Extra Board Rule which reads:

"(d) Employees not having regular assignments or positions on the extra board will be considered furloughed and, except when there are no employees on the extra board available for service, will not be subject to call until recalled to service for either a regularly assigned position or to a position on the extra board as provided for in Rule 14 of the Waiter's Agreement. Failure to report as provided for in Rule 14 for position on extra board will constitute a forfeiture of seniority the same as for a regular assignment unless granted a leave of absence as provided for in Rule 15."

We are unable to agree with claimant's contention that paragraph (d) of the Extra Board Rule requires Carrier to give a furloughed employee notice that he has been temporarily added to the extra Board and thus stands for a call. There is simply no support for the Organization's position in the language it refers to. Paragraph (d) regulates the calling of furloughed employees for regular assignments or positions on the extra board. Most significant for this claim is the provision which states "except when there are no employees on the extra board available for service." There is no question about the fact that we are dealing with a factual situation in which that language is applicable. There were no employees on the extra board available for service. That is the reason that Carrier called claimant for service. Even if paragraph (d) supported claimant's position here in some way, and it does not, it would be inapplicable because of the provision quoted above. Paragraph (d) does not apply to calls made when extra board employees are not available and no extra board employee was available for the service for which claimant was called. The claim must 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 Employee involved in this dispute are respectively Carrier and Employee 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. G. Killen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of January 1973.