

SPECIAL BOARD OF ADJUSTMENT NO. 605

PARTIES) Hotel and Restaurant Employees and Bartenders International
TO) Union
DISPUTE) and
Kansas City Southern Railway Company

QUESTIONS (1) Whether the carrier is required by the February
AT ISSUE: 7, 1965 Agreement to restore to protected status John A.
Dodd, and any other employees who may be similarly situated,
whom it deprived of protected status by the application of a
pre-1965 schedule rule, reading as follows:

"Reduction of Force:

Junior employees will be laid off in the
reduction of forces, subject to Rule 7.
Employees so laid off will retain seniority
if called back within six (6) months.
Employees laid off must file their address
with the employing officer at time of lay-
off. They shall renew same each thirty (30)
days and respond within seven (7) days when
recalled for service. Failure to comply with
these requirements will constitute a for-
feiture of seniority rights."

(2) Whether the carrier is required to pay the em-
ployees the compensation to which they have been entitled
under the February 7, 1965 Agreement as protected employees,
beginning at the earliest date as of which they are entitled
to be paid, consistently with the time-limit-on-claims rules.

OPINION As the result of the discontinuance of Carrier's passenger
OF BOARD: service on November 3, 1969, all dining car employees were
furloughed as of that date. By Bulletin dated October 28,
1969, dining car personnel were notified that:

"All regularly assigned Dining Car Positions
are hereby abolished, effective with com-
pletion of tour of duty on November 3, 1969."

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Carrier asserts, without dispute, that subsequently all of the dining car employees (with the exception of Claimant) retired, resigned or transferred to other positions. ¹

The Organization contends that our Findings in Award Nos. 318 and 354 support the Organization's position as it relates to Question (1); and that the claim was filed and processed in a timely manner.

Carrier takes the position that Claimant forfeited his seniority and compensation guarantee because he failed to observe Rule 9 of the schedule agreement (quoted above in Question at Issue No. 1) in that he failed to perform service within six months after furlough, failed to file his address at time of furlough, and failed to renew the same every 30 days.

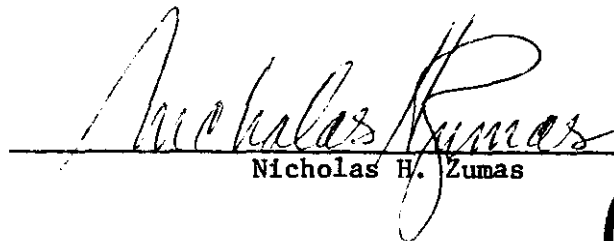
Carrier further asserts that Claimant is not entitled to compensation because the claim was not filed or precessed timely as required, and that there is no obligation, under court rulings and awards of this Board, to pay compensation because positions abolished due to discontinuance do not come within the purview of Article IV of the February 7, 1965 Agreement.

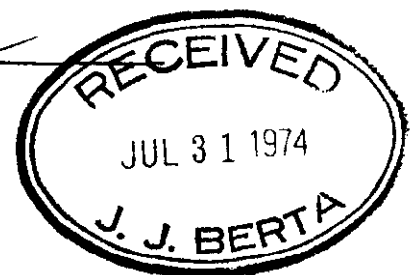
With respect to Question No. 1, the Board finds that Claimant failed to comply with the requirements of Rule 9 in that he failed to file and renew his address with Carrier. This rule is different than those found in our Award Nos. 318 and 354. In those awards there was forfeiture of seniority through no fault of the employee. Here, however, there were requirements with which the employee had to comply.

With respect to Question No. 2, the Board finds that there was failure to comply with the required time limits with respect to compensation and the claim is therefore barred. See Award Nos. 131, 353 and Interpretation to Award No. 318.

AWARD

The answer to both Questions at Issue is in the negative.


Nicholas H. Zumas



Dated: Washington, D. C.
July 26, 1974

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Question (1) of the Question at Issue includes "and any other employees who may be similarly situated." The Board agrees with Carrier's position that this is an insufficient description. They are not named nor is there any showing in the record that they are readily ascertainable. See Third Division Award Nos. 16216 and 17195.