

NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION

John W. Yeager, Referee

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**PARTIES TO DISPUTE:**

**JOINT COUNCIL DINING CAR EMPLOYEES**

**CHICAGO AND EASTERN ILLINOIS RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the Joint Council Dining Car Employees, Local 351, on the property of the Chicago and Eastern Illinois Railroad Company, for and in behalf of Henry Willis and Addis M. O. Davis, Dining Car Waiters, to be returned to service with seniority rights accumulated and unbroken, and with compensation to the extent suffered as a result of unjust and wrongful discharge in violation of the current agreement and in abuse of the Carrier's discretion.

**OPINION OF BOARD:** Henry Willis and Addis M. O. Davis, dining car waiters, were, on April 21, 1947, dismissed from the service by the Carrier herein on account of claimed intoxication while on duty on a train of the Carrier, which train was on April 17, 1947 proceeding from Chicago, Illinois to Evansville, Indiana.

The Joint Council Dining Car Employees, Local 351, the organization representing these employees, seeks their return to service with seniority rights unimpaired and unbroken and compensation for the time lost on account of dismissal.

The grounds of the claim are that it has not been shown that these men were intoxicated, that they were not accorded a fair hearing, and that the discipline was too severe.

As to the matter of whether or not these employees had a fair hearing, they were notified in writing both before and after dismissal of the specific ground therefor. They were allowed an investigation in conformity with the requirements of the controlling agreement. At the hearing all witnesses were called and examined who appeared to have knowledge of the matter under investigation and full opportunity was afforded for examination and cross-examination. The representatives of the employees were of their own choosing. There was no evidence of obstruction or intimidation. The record does not disclose any violation of the agreement or of any substantial right of the employees in this respect.

As to the question of intoxication, it may well be said that seniority rights and the right to work in a position ought not to be destroyed or taken away in the absence of convincing proof or upon conjecture or suspicion. The proof of intoxication to warrant discipline should be sufficient to convince reasonable minds that it did exist.

The evidence before the Division when considered in this light we think was sufficient to convince that these two employees were intoxicated at

the time and place in question. It appears that the Carrier was justified under the facts in dismissing them from the service. There is nothing to indicate that the action taken was arbitrary, capricious, or unreasonable.

**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 employes involved in this dispute are respectively carrier and employes 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 has not been sustained.*

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: H. A. Johnson  
Secretary

Dated at Chicago, Illinois, this 24th day of June, 1948.