

Award No. 6120

Docket No. DC-5897

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYES, LOCAL 351

CHICAGO & 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 on behalf of Richard A. Carter, that he be returned to his former assignment, that all rights, seniority and pay be restored as of May 17, 1950.

OPINION OF BOARD: If the official designated to conduct a hearing proceeds arbitrarily or capriciously, the proper contractual remedy is an appeal not a refusal to answer questions or to participate in the hearing. We have long held the latter conduct to be improper. See Award No. 2945.

Claimant, on advice of his representative, refused to answer questions at the hearing scheduled for April 27, 1950. He and his representatives walked out of the hearing scheduled for May 12, 1950 and declined to accept the Carrier's offer of June 16, 1950 to conduct another hearing. Under such circumstances the claim is without merit.

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

The Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 6th day of March, 1953.