

Award No. 6510

Docket No. DC-6803

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

PARTIES TO DISPUTE:

UNITED TRANSPORT SERVICE EMPLOYES

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: This claim is filed on behalf of Jesse L. Porter, Waiter, formerly employed in the Dining Car Department of the Southern Railway System. Mr. Porter was dismissed from service as a result of an investigation on the following charges:

(1) Violation of Rule 25 of the Manual of Instructions for Employees in Dining and Tavern Car Service.

(2) Taking Company property off Dining Car 3309, Train 37, at New Orleans, November 24, 1952.

The Organization contends that Mr. Porter did not receive a fair and impartial investigation as provided by the rules agreement and that the discipline imposed was both improper and excessive.

Claim is for Mr. Porter's restoration to service with seniority and other rights unimpaired and for said discipline to be removed from his service record. Claim is further made for pay for Mr. Porter for all time lost on account of the imposition of said discipline.

OPINION OF BOARD: The record shows that the dispute covered by this docket is not properly before this Board for the reason that it was not handled "in the usual manner" as provided for in Section 3, First (i) of the Railway Labor Act, as amended.

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 herein; and

That the claim is dismissed in accordance with the Opinion.

AWARD

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois this 11th day of March, 1954. .