

Award No. 9172
Docket No. MS-11208

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

EZEKIEL DANIELS, JR.

JACKSONVILLE TERMINAL COMPANY

STATEMENT OF CLAIM: Were the alleged irregularities in the handling of Red Cap checks sufficiently supported by the evidence, and if so, was the disciplinary action of a summary discharge of Petitioner too severe a penalty under the circumstances.

OPINION OF BOARD: At the outset we are confronted with Carrier's challenge of the Board's jurisdiction to consider the dispute on its merits in that Petitioner did not institute proceeding before this Division within the 9 months provided in Article V, Section 1(c), August 21, 1954 Agreement.

The record shows that the highest designated officer of the Carrier denied claim on November 14, 1957. Proceedings before this Division were not instituted until March 24, 1959, which is in excess of the 9 months specified in Article V. Consequently, the dispute was barred before submission to this Board. We have no alternative than to dismiss the claim.

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 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;

That the claim is barred by the August 21, 1954, National Agreement.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of January, 1960.