

Award No. 9810

Docket No. DC-9598

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Donald F. McMahon, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 233

NEW YORK CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees Local 233 on the property of the New York Central Railroad Company for and on behalf of Waiter Earl P. Adams, that he be reimbursed for net wages lost account discipline of 15 days suspension from service effective March 20, 1956, said imposition of discipline being in violation of agreement and as a result of Carrier's arbitrary and capricious action.

OPINION OF BOARD: The docket here before us concerns discipline assessed Claimant by Carrier of fifteen days suspension for which the Organization is requesting reimbursement for Claimant, based upon the contention that Carrier did not provide Claimant with a fair and impartial trial, that the Hearing Officer for Carrier did not allow Claimant's representative to obtain certain answers to questions he had proposed to Carrier's witnesses on cross-examination. Further objection is made by the Organization to Carrier's action here, that Carrier declined Claimant the right to appeal his suspension as provided in Rule 6 (b) as provided by the effective Agreement.

Carrier denies all the contentions raised by the Organization and has cited the Board to several awards made by this Division to sustain its position.

It is noted in the record before us that the Organization does not dispute the merits of the discipline assessed here, but rather contends the Claimant was denied his proper rights by Carrier, as provided by Rule 6 (b).

The contention that Claimant was not furnished a fair and impartial trial is not supported by the evidence. Claimant's representative admitted at the Investigation and Hearing that Claimant had a fair and impartial hearing. Further the record does not support the contention that Carrier had denied Claimant any of his rights, due to handling of the hearing and procedure by the Hearing Officer. No exceptions were made by or on behalf of Claimant, and we must conclude that the grounds on which the appeal is made are not supported by the record. This Division has previously denied cases brought before it on grounds similar to the case here, and we adhere

to the principles set forth in Awards No. 5026, 4169 and 9322. The claim here does not merit a sustaining Award.

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 Employee involved in this dispute are respectively Carrier and Employee 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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 2nd day of February, 1961.