

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Donald F. McMahon, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 385

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD
COMPANY**

STATEMENT OF CLAIM: Joint Council Dining Car Employees Local 385 on the property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company for and on behalf of Waiter T. Coleman that claimant be compensated for net wage loss, account being held out of service trip commencing April 3, 1956, train 15 as result of discipline imposed in violation of current agreement.

OPINION OF BOARD: *The Organization raises the question that Claimant was wrongfully suspended by Carrier and that he was not furnished a fair and impartial Hearing in that the decision made by Carrier assessing suspension against Claimant was made by an Officer other than the Officer conducting the Hearing. The Organization requests the suspension assessed Claimant be set aside, and that Claimant be paid for all time lost as a result of Carrier's action, and that he be restored to all other rights accruing to him under the provisions of the effective Agreement between the parties.*

Carrier denies that it has in any way violated the provisions of the Agreement between the parties. That Claimant was granted a fair and impartial Investigation and Hearing, that in view of the record the penalty assessed was fair and reasonable.

From a review of the record here we have no authority to read into Rule 8 of the Agreement, that which would require the Hearing Officer designated by Carrier to make the decision as argued by the Organization. Such a requirement can only be reached by negotiation and conference between the Organization and Carrier.

As to the merits of the claim before us, we find that the claim is not supported by the facts of record, that the record here reasonably supports the decision made by Carrier in assessing the suspension.

The claim should be denied in its entirety.

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 provisions of the effective Agreement between the parties.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 8th day of February, 1961.