

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Kieran P. O'Gallagher, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF SLEEPING CAR PORTERS
CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: * * * * for and behalf of Jake Clayton who is now and for some time past has been employed by the Chicago, Rock Island & Pacific Railroad Company as a sleeping car porter operating out of Chicago, Illinois.

Because the Chicago, Rock Island & Pacific Railroad Company did finally, through Mr. G. B. Mallory, Vice President—Personnel, sustain a disciplinary action taken against Mr. Clayton as a result of charges having been preferred against him by Superintendent of Dining and Sleeping Cars Bonesteel wherein Mr. Clayton received a penalty as a disciplinary action of 15 days actual suspension without pay.

And further, because the charges upon which the disciplinary action was taken were not proved and said action was arbitrary, unreasonable, capricious, and in abuse of the Company's discretion.

And further, for the record of Mr. Clayton to be cleared of the charge in this case and for him to be reimbursed for the 15 days pay lost as a result of this unjust disciplinary action.

OPINION OF BOARD: In the instant claim Sleeping Car Porter Jake Clayton, assigned to sleeping car No. 73, operating from Chicago, Illinois, to Denver, Colorado, entered club diner No. 376, train No. 7, at about 7:40 A.M. on March 5, 1964, where he was served breakfast without receiving a meal check. The facts are uncontroverted. He was served a meal consisting of ham and eggs and beverage; the waiter in charge failed to give him a meal check, and he did not pay for the meal.

The Claimant seeks to rely on the failure of the waiter in charge to present a DC 23 meal check to relieve him of the responsibility to pay for the meal.

We are not persuaded that this defense has any merit. Clearly, it was the duty and obligation of the Claimant to have paid for his meal.

The Organization contends the notice addressed to the Claimant advising him of the formal investigation lacked the clarity necessary to apprise the Claimant of the charges against him. We can find no merit in this contention. The notice served on the Claimant was sufficiently clear to apprise him of the matters to be inquired into at the investigation, and that was sufficient.

The Organization also contends the Claimant was not afforded a fair and impartial trial, as provided in the rules. A careful scrutiny of the transcript of testimony taken at the hearing lends no support to this contention.

In the circumstances found, the claim shall be denied.

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

The Agreement was not violated.

AWARD

Claim denied.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of May 1965.