

Award No. 13670
Docket No. DC-14817

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Harold M. Weston, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 849

**CHICAGO, ROCK ISLAND AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees, Local 849, on the property of the Chicago, Rock Island and Pacific Railroad Company, for and on behalf of Waiter-in-Charge Richard F. Pennington and Porter-Waiter Henry S. Green, that they be returned to service with seniority and vacation rights unimpaired and compensated for net wage loss account of Carrier dismissing claimants from service on the 16th day of January, 1964, in abuse of its discretion and in violation of the Agreement.

OPINION OF BOARD: The two Claimants, a Waiter-in-Charge and a Porter-Waiter, were dismissed from Carrier's service on January 16, 1964, for collecting payment for meals without issuing meal checks while working on a grill car on December 12, 1963.

A hearing was held in the matter before Claimants were dismissed and they were duly represented there and afforded an opportunity to examine and cross-examine witnesses and develop their cases. Contrary to Petitioner's contention, we find that Claimants received fair and adequate notice of the charges against them. The notice clearly specified the time, place and nature of the acts and omissions with which they were charged.

Petitioner insists that the record is materially defective, since Carrier rejected Petitioner's request prior to the hearing for the names of the witnesses and an opportunity to examine any written statements that would be used in the case. This argument lacks merit in the controlling Agreement requiring the production of the requested information (cf. Award 3288 and other awards based thereon) and the authors of the only written statement used in evidence were present at the hearing and subject to cross-examination (cf. Awards 8576 et al).

Carrier's findings are supported by substantial credible evidence consisting of the written report and the testimony of the two inspectors who prepared it. The excuses offered by Claimants are not persuasive and we see no valid basis in this case for interfering with Carrier's findings and determination.

The claim will be denied. See Awards 13396, 13250, 12834, 11769 and 9422.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 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 17th day of June 1965.