

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 351

CHICAGO AND EASTERN ILLINOIS RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the Joint Council Dining Car Employees, Local 351, on behalf of R. A. Carter, dining car waiter, that his record be cleared of the charges placed against him and that he be compensated for net wage loss suffered as a result of unjustified and unwarranted discipline of suspension from service for sixty (60) days dating from March 10, 1949, which discipline was imposed in violation of Article 3(a) and in abuse of Carrier's discretion.

OPINION OF BOARD: Following notice of hearing upon specified charges, Claimant was suspended sixty days. The Organization contends discipline was imposed in violation of Article III(a) of the Agreement effective March 1, 1943, and in abuse of Carrier's discretion.

The Organization contends that Carrier denied Claimant a fair and impartial hearing, as required by Article III(a) of the Agreement, because the Carrier's Representatives refused to exclude witnesses from the hearing until each was called to testify. The Organization further contends that the evidence adduced does not support either of the charges against Claimant, and the discipline imposed was in abuse of Carrier's discretion.

As to the first contention, Article III(a) makes no provision as to procedure in the introduction of witnesses at a hearing. The Carrier asserts that all past hearings have been conducted, as in the instant case, without objection, which assertion is not denied or contested by the Organization.

This Board must construe and apply Agreements as the parties make them. As Article III(a) does not provide for the exclusion of witnesses until each is called to testify, the Board holds the Carrier's action was not in violation of the Agreement.

As to the second contention, the evidence of record discloses no grounds for disturbing the action of the Carrier.

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 Employees 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 claim will be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 17th day of October, 1950.