

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Angus Munro, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 478

THE NASHVILLE, CHATTANOOGA & ST. LOUIS RAILWAY

STATEMENT OF CLAIM: Claim JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 478, on the property of NASHVILLE, CHATTANOOGA & ST. LOUIS RAILWAY, for and on behalf of WALTER FIELDS, Waiter, that he be returned to service with seniority accumulated and unbroken and compensated for net wage loss suffered from April 21, 1949, by reason of being dismissed from service of NASHVILLE, CHATTANOOGA & ST. LOUIS RAILWAY in violation of Rule 11 of the current agreement.

OPINION OF BOARD: The sole question to be here determined is whether or not Petitioner was accorded that type of hearing contemplated by the Schedule. We think Rule 11 (b) refers only to those officials who are a part of the Carrier's family. Thus Carrier, a corporation, acting by and through its duly authorized officers may designate other officials or employees of it to perform the functions described in said rule. The fact that for operating purposes the designated officials function under a name or style other than that of Carrier does not alter or change the right of Carrier to name them to perform the duties and obligations of Carrier under such rule.

In the case here before the Board we find Petitioner was served with notice issued by Carrier, that the hearing official was an employee of Carrier and the record before us does not reflect that he was not authorized to act in such capacity.

We do not think Award 5221 (First Division) cited on behalf of Petitioner to be in point in that there the hearing official was not an employee of the accusing Carrier.

By reason of the above and foregoing we find it not necessary to pass upon the point raised by Carrier with reference to Rule 11 (d) of the Schedule and as to the sufficiency of the evidence adduced upon hearing hereof. Accordingly the finding will not be disturbed.

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 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

That an affirmative Award may not be returned.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 20th day of March, 1951.