

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dwyer W. Shugrue, Referee

PARTIES TO DISPUTE:

**JOINT COUNCIL DINING CAR EMPLOYEES
(Local 849)**

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

STATEMENT OF CLAIM: Joint Council Dining Car Employees Local 849 on the property of the Chicago, Rock Island & Pacific Railroad Company for and on behalf of Leo C. Clark; that he be restored to service with seniority and vacation rights unimpaired and that he be paid for all time lost between December 30, 1953 and January 9, 1954.

OPINION OF BOARD: The train on which the occurrence took place was jointly operated by the Southern Pacific Railroad Company and the Carrier herein. The charges against Claimant were based upon a report received from the Southern Pacific covering observations made by an operative in their employ relating to service by personnel on the Coffee Shop-Lounge Car on the day in question. Claimant was suspended for a period of 10 days because, among other things, of poor service afforded passengers. Claimant requested and was afforded an investigation, a transcript of which is in the docket.

The employes maintain that the investigation was not fair and impartial because the operative whose report was spread on the record at the investigation, was not produced at the investigation.

Carrier asserts that under the discipline rule of the agreement it was under no duty to produce the writer of the report and that the use of operatives such as was utilized here had received prior board sanction.

We feel constrained to agree with the carrier with respect to its contentions. See Awards 7863, 7866 and 7907, with Referee Livingston Smith assisting, and Award 4716 with Referee Robertson.

A careful review of the entire record in this case reveals that Claimant was given a fair hearing in accordance with applicable rules, and that there was substantial evidence developed at the investigation to support Carrier's conclusion and to justify disciplinary action in suspending him from service for ten days. The record is devoid of any facts that would indicate arbitrary or unreasonable action on the part of the Carrier either in its determination of Claimant's guilt or in the measure of discipline assessed therefor.

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 the Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 20th day of May, 1958.