

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

THEODORE COLLINS

**THE PULLMAN COMPANY AND
THE BROTHERHOOD OF SLEEPING CAR PORTERS**

STATEMENT OF CLAIM: This Petition is brought for a violation of Rule 49 of the AGREEMENT BETWEEN THE PULLMAN COMPANY AND THE BROTHERHOOD OF SLEEPING CAR PORTERS, REVISED, EFFECTIVE JANUARY 1, 1953.

The question involved is whether an employe may be discharged without a fair hearing, or notice of the charges against him, in writing, as required by said Rule 49.

OPINION OF BOARD: The record shows that, on August 10, 1954, Carrier notified Claimant Collins, in writing, that he was dismissed from service effective that date based on evidence presented at a hearing held on July 23, 1954, on the charge as outlined in Carrier's letter to Claimant dated August 10, 1954; that, on August 13, 1954, Claimant's dismissal was appealed and conference was held thereon on August 30, 1954, following which Carrier denied the appeal on September 13, 1954; and that no further action was taken until notice was addressed to this Division on January 24, 1957, of intention to file the dispute with this Board.

Rule 53 of the applicable Agreement provides as follows:

"**RULE 53. Appeals.** If the decision of the district representative is not satisfactory, the employe involved or his representative shall have the right of appeal. Such appeal shall be made in writing within 30 days from date of decision of the official initially handling the case to the Appeals Officer, or to such other officer as may be designated from time to time by the Vice-President, Operating Department. If conference on appeal is requested, it shall be held within 20 days of date of receipt of request and decision shall be rendered within 20 days after conference is completed. If no conference is requested, decision of the Appeals Officer shall be made within 20 days after receipt of the appeal. Decision of the highest officer designated to handle appeals shall be final and binding, unless appealed in accordance with the provisions of the Railway Labor Act within 60 days from the date of decision."

Inasmuch as no further appeal was timely made in accordance with Rule 53 after initial appeal was denied by Carrier on September 13, 1954, the claim is not properly before the Board and we must hold that Carrier's decision is final and binding.

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

That, in accordance with Opinion, the claim is not properly before the Board and Carrier's decision is final and binding.

AWARD

Claim dismissed in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June, 1959.