

Award No. 9378

Docket No. MS-11571

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Mortimer Stone, Referee

PARTIES TO DISPUTE:

JACK V. TAYLOR

CHICAGO AND EASTERN ILLINOIS RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the Employee that:

(a) The Carrier violated the agreement when, at Chicago, Illinois, effective August 29, 1956, it discharged Jack V. Taylor, a clerk in the Chicago freight office, from its service, and

(b) Jack V. Taylor should now be restored to Carrier's service with seniority and all other rights unimpaired, and compensated for all time lost in accordance with Rule 39 of the Schedule of Working Conditions.

OPINION OF BOARD: This is a discipline case involving the dismissal of Claimant Jack V. Taylor after a proper charge had been made and investigation held in accordance with Rule 33 of the collective bargaining agreement. The record reflects that claimant was given a fair and impartial hearing and he so admits in the transcript thereof.

Respondent contends, and the record shows, that petitioner failed to appeal from the carrier's decision of dismissal within the thirty day period specified in Rule 35 and failed to give a copy of the appeal when made to the official whose decision was being appealed, and that thereafter he failed to institute proceedings before this Division or elsewhere within nine months from the date of decision by the highest designated officer as required by the Memorandum of Understanding of April 22, 1955.

Failure properly to file a timely appeal under the rules bars a decision on the merits of a claim such as the one presented here. See Awards 8474 and 8476 of this Division.

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 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 the claim is barred.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of April 1960.