

Award No. 9817

Docket No. DC-9343

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Donald F. McMahon, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 385

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD
COMPANY**

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees Local 385 on the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company for and on behalf of Waiter S. P. Jackson, that he be reimbursed for ten days pay, August 3, 1956—August 12, 1956 inclusive, account being suspended as and for discipline assessed in violation of current agreement.

OPINION OF BOARD: The Organization contends that the Claimant was denied a fair and impartial Investigation and Hearing by Carrier on the ground and for the reason and as argued in the record before us, that the Officer conducting the Hearing was not the same person as the Officer making the decision of Carrier, resulting in suspension of Claimant for a period of ten days.

Further contention is made by the Organization that Claimant was in no way guilty of the charges preferred against him by Carrier, and that discipline assessed was unjust, arbitrary and capricious.

Carrier denies all of the contentions made by Organization and relies upon the record here before us.

After a thorough review of the record we conclude that the first contention of the Organization is not supported in the record. A reference to Award 2608 of this Division, without a Referee, is applicable here. Since this Board has upheld the principles of procedure as here involved, in many Awards, we conclude that such contention is not well taken and is contrary to the Opinion and Findings in Award No. 2608.

As to the second contention of the Organization, same is not supported by the record before us, and the claim should be denied.

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 the record here does not justify a sustaining Award.

AWARD

Claim denied as per Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 8th day of February, 1961.