

Award No. 11168

Docket No. DC-12860

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William H. Coburn, Referee

PARTIES TO DISPUTE:

**JOINT COUNCIL DINING CAR EMPLOYEES
LOCAL 351**

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees, Local 351, on the property of the Atchison, Topeka & Santa Fe Railway Company, for and on behalf of Waiter Melvin L. Martin, that claimant be restored to service with seniority and vacation rights unimpaired and compensated for net wage loss since November 26, 1960, account of Carrier dismissing claimant from service on that date in violation of the Agreement and in abuse of Carrier's discretion.

OPINION OF BOARD: This is a discipline case involving the dismissal from service of Dining Car Waiter Melvin L. Martin.

The controlling Agreement between the Parties in this case contains Supplement V — Final Handling of Disputes, Claims and Grievances and reads in part, —

"Decision by the highest officer designated to handle disputes will be final and binding unless within sixty (60) days after written notice of such decision the said officer is notified in writing that his decision is not accepted. **All claims or grievances involved in such decision will be barred and deemed to have been abandoned unless within six (6) months from date of said officer's decision proceedings are instituted before a tribunal of competent jurisdiction established by law or agreement to secure a determination or adjudication of the rights of the parties.**" (Emphasis ours.)

The record in this case shows decision of dismissal by Carrier's highest officer of appeal, Vice-President Ray, on December 20, 1960, while the notice of intent to file this dispute with the Third Division was dated August 15, 1961, obviously in excess of the time limit provided for in Supplement V.

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 Employes involved in this dispute are respectively Carrier and Employes 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 by terms of the Time Limit Rule.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 28th day of February 1963.