

Award No. 11347

Docket No. MS-13109

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

REUBEN WALTON

**THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY—DINING CAR DEPARTMENT**

STATEMENT OF CLAIM: Claim of Waiter Reuben Walton on the property of the Atchison, Topeka & Santa Fe Railway Company that he be restored to service with seniority and vacation rights unimpaired and compensated for net wage loss since November 30, 1960, on account of the Carrier dismissing him from service on that date in violation of the agreement and in abuse of Carrier's discretion.

OPINION OF BOARD: This case presents the claim of Dining Car Waiter Reuben Walter for reinstatement and back pay.

Supplement V—First Handling of Disputes, Claims and Grievances—of the applicable Agreement governing the dispute provides in part as follows:

"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 claim was denied by Carrier's highest designated officer on January 16, 1961. The letter of intent to file the claim bears the date of November 27, 1961. Clearly this exceeded the time limit of the above provision.

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 no jurisdiction over the dispute involved herein; and,

That the claim is barred.

Claim dismissed.

AWARD

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 26th day of April, 1963.