

Award No. 12718

Docket No. DC-13971

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Francis M. Reagan, 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 the Chicago, Milwaukee, St. Paul & Pacific Railroad Company, for and on behalf of Chef George Adams, that he be compensated for net wage loss, account of Carrier suspending Claimant from service for ten (10) days, in bad faith; abuse of its discretion and in violation of the existing Agreement.

OPINION OF BOARD: Contention in this matter arose out of suspension of the Claimant for a period of 10 days without pay for alleged violation of work rules.

Claim is made this violated the agreement of the parties dated February 1, 1956. Reimbursement is asked for the 10 days' pay withheld.

A review of the facts discloses that S. W. Amour, highest designated officer of the Carrier, declined the claim on May 7, 1962.

This Board was advised March 15, 1963 by Richard W. Smith, Secretary-Treasurer, Joint Council of Dining Car Employees, of the Organization's intention to intervene.

March 15, 1963, is 10 months and 8 days after May 7, 1962.

Rule 8 (g) of the cited agreement provides in part:

" * * * * "

All claims or grievances involved in a decision by the highest designated officer shall be barred unless within nine (9) months from the date of said officer's decision proceedings are instituted by the employe or his duly authorized representative before the appropriate division of the National Railroad Adjustment Board. . . . It is understood, however, that the parties may by agreement in any particular case extend the nine months' period herein referred to."

This claim is barred by failure of the Organization to meet the time requirements of its operating agreement with the Carrier. No evidence appears in the file of any efforts of the Organization to seek an extension.

Unfortunately, this claim will never be heard on its merits.

Further, a review of the record fails to disclose any rebuttal by the Organization of the serious statements of misconduct on the part of the Claimant in the Carrier's Ex Parte Submission.

Further, the Carrier has brought the Board's attention to the fact that this is the third instance of the Organization's failure to meet the time requirements of its agreement with this Carrier involving this same Rule 8 (g). The other awards being Award 8479 (Coburn) and Award 9815 (McMahon). These claims, unfortunately, also will never be heard on their merits.

Rule 8 (g) is a rule of strict performance. Meet it or be forever barred.

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 Employees involved in this dispute are respectively Carrier and Employees 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 Agreement has not been violated.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1964.