

Award No. 13671
Docket No. DC-14865

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Harold M. Weston, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 582

SOUTHERN PACIFIC COMPANY
(Pacific Lines)

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees, Local 582 on the property of the Southern Pacific Company, for and on behalf of Augustine Santos, All Day Lunch Car Attendant, that he be restored to service with seniority and vacation rights unimpaired account of Carrier dismissing Claimant from service on January 18, 1962, in abuse of its discretion and in violation of the Agreement.

OPINION OF BOARD: Carrier dismissed Claimant from its service on January 18, 1962. This action was based on Carrier's findings made after a hearing had been held in the matter, that Claimant had been guilty of the following derelictions while he was working on January 9 and 10, 1962, in a Hamburger Grill Car:

1. Keeping cash drawer open and making change therefrom without recording sales on the cash register.
2. Failure to issue cash register receipts.
3. Failure to make deposits of money collected at designated points.

Carrier's findings are amply supported by substantial credible evidence and we will not disturb them unless some material defect is perceived in the record.

Petitioner contends that Claimant was denied a fair and impartial hearing when Carrier refused to advise him, in advance, of the evidence that would be used against him at the hearing. This point is untenable under the circumstances of this case. We have been referred to no rule in the Agreement that requires the production of such evidence. It is noted that all adverse witnesses attended the hearing, and Claimant, who was duly represented and given fair notice of the charges against him, had full opportunity to cross-examine them and contest their statements and reports.

We have examined the record with care, and do not find that Carrier has committed reversible error or arrived at unreasonable or arbitrary conclusions.

There is no valid basis here for substituting our judgment for that of Carrier, and we will deny the claim.

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

The Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 17th day of June 1965.