

Award No. 14842

Docket No. DC-15512

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Benjamin H. Wolf, Referee

PARTIES TO DISPUTE:

**JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 849
CHICAGO, ROCK ISLAND & PACIFIC RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees Union, Local 849 on the property of the Chicago, Rock Island and Pacific Railroad Company, for and on behalf of Jewell D. Grimes, Waiter, that he be restored to service with seniority and vacation rights unimpaired and compensated for net wage loss from May 29, 1963, account of Carrier dismissing Claimant from service in violation of the Agreement and in abuse of its discretion.

OPINION OF BOARD: Carrier contends that this claim is barred under the applicable Time Limit Rules inasmuch as it was withdrawn from the Board and it was agreed that disposition of the case would turn on Claimant's behavior during the period of one year after he was dismissed, and once having been withdrawn it could not be reinstated.

The record shows that the identical claim was filed on November 20, 1963. On January 8, 1964, the Organization wrote this Board,

"Request is hereby made to withdraw same from your Board as this matter has been settled on the property."

The settlement was set forth in a letter dated August 16, 1963, addressed to the General Chairman over the signature of G. E. Mallery, Vice-President of the Carrier, as follows:

"We did agree, however, that Mr. Grimes would be subject to the prevailing Rule G policy of the Company, which is briefly that Mr. Grimes is eligible for reinstatement after a period of one year if, following an investigation of his activities, he is found to have corrected the condition which lead to his dismissal."

The claim was refiled when, according to the Organization, the Carrier failed to follow its own Rule G policy and acted in bad faith. It accused Carrier of using evidence of events which occurred on July 22, 1963, which was before the date of the settlement but after the discharge, as the basis for refusing Claimant reinstatement under the Rule G policy. Thus, the claim is not that the settlement was made in bad faith but that it was carried out in bad faith. The Organization did not seek to repudicate the settlement but did seek its

enforcement. What seems to be involved is a violation of the settlement agreement but that claim is not before us.

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 claim is barred as stated in Opinion.

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 October 1966.