

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don J. Harr, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 351
THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY
(Dining Car Department)

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees, Local 351, on the property of the AT&SF Railway Company, for and on behalf of Edward B. Spencer, that he be restored to service with compensation for net wage loss with seniority and vacation rights unimpaired since June 17, 1965, account of Carrier suspending claimant from service on that date and dismissing claimant on July 31, 1965, in violation of the Agreement between the parties and in abuse of its discretion.

OPINION OF BOARD: The Carrier contends that this Board is barred from considering the instant claim because of the Employees' failure to prosecute the claim as provided in Article VI, Section 13, of the Dining Car Employees' Agreement.

This Article reads:

"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."

From a review of the record we find that the Employees did not notify the Carrier's "highest officer designated to handle disputes" in writing within sixty days after written notice of his decision dismissing Claimant from service.

We will dismiss 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

That the Claim should be dismissed.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 31st day of March 1967.