

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Nathan Engelstein, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD TRAINMEN

SEABOARD AIR LINE RAILROAD COMPANY

STATEMENT OF CLAIM: Steward W. E. Wrightson shall be paid full wages for time lost from June 16-July 15, 1965. His expenses incurred on the trip to Savannah, Georgia for investigation from May the 16th to May the 18th for meals, taxi and tips - \$11.50. His time from Baltimore to Savannah and return - 24½ hours at \$3.35 an hour - \$80.57. Total - \$92.07

Request Steward Wrightson's record be cleared and the discipline be removed.

OPINION OF BOARD: On April 19, 1965, an incident took place in the dining car on Train No. 58 between Columbia and Camden, South Carolina. It was alleged that a waiter used profanity and drew a knife from his pocket following an argument with the Passenger Service Agent. Mr. W. E. Wrightson, the Steward assigned to that dining car, was charged with failure to make a report of the incident and failure to discharge his duty and responsibilities as required of Stewards in the rules governing employes in the Dining Car Department.

Mr. Wrightson was notified to attend a formal investigation on May 6, 1965, by a registered letter dated April 27, 1965. After several postponements, the investigation was held at Savannah, Georgia, May 17, 1965.

In a letter of June 14, 1965, Mr. Wrightson was informed that as a result of the formal investigation he was suspended for thirty days from June 16 to July 15, 1965.

Steward Wrightson contends that he should be paid wages for the time lost from June 16 to July 15, 1965, and that he should be reimbursed for expenses incurred in attending the investigation at Savannah, Georgia, because Carrier failed to notify him within the time prescribed in Article 6, Section 2 (a), of the Dining Car Stewards' Agreement.

The record confirms that Carrier did not notify Claimant within fifteen days of the action of the company as required by Article 6, Section 2 (a), of the controlling Agreement. The formal hearing was concluded on May 17, 1965, but Carrier failed to send Mr. Wrightson notice of his thirty-day suspension until June 14, 1965, a date well beyond the fifteen-day requirement.

The record also shows that a claim in writing for the expenses incurred in connection with Mr. Wrightson's attendance at the investigation at Savannah, Georgia, was not presented within forty-five days from the time cause for claim occurred as required by Article 6, Section 1 (a), of the Dining Car Stewards' Agreement. These expenses were incurred between May 16 and May 18, but the Local Chairman's request for Mr. Wrightson's reimbursement of expenses was not sent to the General Superintendent until July 26, a date beyond the forty-five day time limit.

Where either party has failed to comply with the requirement of Article 6 of the Dining Car Stewards' Agreement, the claim must be disposed of under this Article at the stage of handling in which such failure becomes evident. Since Carrier failed to comply with the terms of Article 6, Section 2 (a), Mr. Wrightson is entitled to be paid full wages for time lost from June 16 to July 15, 1965. Inasmuch as Mr. Wrightson failed to request reimbursement for expenses within the forty-five days prescribed by Article 6, Section 1 (a), this claim for expenses cannot be sustained. These findings are in accord with the principle set forth in Award Nos. 13530 and 15919.

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 was violated.

AWARD

Claim sustained in part and denied in part.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 29th day of December 1967.