

Award No. 2081
Docket No. 1837
2-AJT-CM-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee David R. Douglass when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 110, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

ATLANTA JOINT TERMINALS

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement Coach Cleaner Willie J. Harris was unjustly suspended from the service on December 1, 1953.

2. That the Carrier be ordered to compensate Coach Cleaner Willie J. Harris for all wages lost retroactive to 8:00 P.M., December 1, 1953, until Claimant was restored to service.

EMPLOYEES' STATEMENT OF FACTS: At the time of dispute, Coach Cleaner Willie J. Harris (hereinafter referred to as the claimant) was working five days a week, Sunday through Thursday, from 8:00 P.M. until 3:30 A.M.

On reporting for work on Tuesday, December 1, 1953 at 8:00 P.M., claimant was notified by Mr. W. T. Thacker, passenger car inspector, orally, that he would have to see Mr. Bryce Bullington, assistant general foreman, before he could work anymore.

On December 2, 1953, claimant reported to Mr. Bryce Bullington's office and was notified of a disturbance, orally, by Mr. Bullington and was asked to resign, which claimant refused to do. Mr. Bullington then told claimant that he would let him hear from him in a few days.

Claimant was then held out of service by Mr. Bullington from December 1, 1953 until such time that an investigation was held.

Under date of December 9, 1953, General Foreman Mr. S. D. Griffin, addressed the following letter to claimant by registered mail:

"This is to advise you to be present in the office of the General Foreman, Mr. S. D. Griffin, at 3:30 P.M., Friday, December 11, 1953 for investigation into charges of your creating a disturbance in coach at the Union Station, on Monday night, November 30, 1953, and not properly performing your duties. You may bring any witnesses or representation that you may care to bring."

Also to letter quoted from B. A. Culpepper to M. L. Bowie. Mr. Culpepper is employed as executive assistant on Georgia Railroad, with headquarters at Augusta, and M. L. Bowie is the director of personnel of Atlanta Joint Terminals.

Harris has worked for the Terminals off and on since 1937 and was dismissed in 1938. There is no doubt he was guilty of creating the disturbance complained of, fighting and using profane language on company property. In fact, the altercation was so violent the train porter went for the conductor to come and stop it. Harris had a fair and impartial investigation, which he admits on page 5 of the transcript and his representatives took no exception to the manner in which the investigation was conducted. The action of the carrier in assessing the discipline imposed on claimant was not arbitrary or capricious, nor do we feel under the circumstances, excessive.

Carrier sees no merit to the claim and requests it be declined.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The facts and circumstances, as revealed by this particular case, were not such as to permit the carrier to suspend the claimant pending his hearing and the decision of the carrier.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 13th day of March, 1956.