Award No. 1851
Docket No. MC-1490-94
2-PRR-1-'54

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Lloyd H. Bailer when the award was rendered

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PARTIES TO DISPUTE:

EDWENA LITTLEFIELD—Petitioner

THE PENNSYLVANIA RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYE: Claim of Edwena Littlefield (hereinafter referred to as claimant-employe) for reinstatement in service together with compensation for wages lost, after having been discharged from her job as coach cleaner effective June 12, 1952.

EMPLOYE'S STATEMENT OF FACTS: Since the carrier has declined to consider a joint statement of facts, the following is submitted by the claimant-employe as a statement of the facts as claimant-employe believes them to be:

On May 28, 1952, the claimant-employe, then employed as a coach cleaner, on the Chicago Division, was placed on trial on the following charge:

> "Found picking up two bundles from concealment in Coach 4019, Track No. 8, Coach Yard at 2:55 P. M. on May 25, 1952, containing 9 packages PRR Coffee, 4 boxes Sugar and 2 Drinking Glasses."

After the trial, claimant-employe was found guilty and pursuant to G-32 Notice No. 3209, dated June 10, 1952 was dismissed from the service of the carrier, effective June 12, 1952.

She appealed to the superintendent of the carrier and was granted a hearing on June 28, 1952. The superintendent denied the appeal in letter addressed to claimant-employe under date of July 3, 1952.

She appealed to the general manager, Western Region, Pennsylvania Railroad, the chief operating officer of the carrier designated to handle disputes with employes of the craft or class to which claimant-employe belonged. The general manager denied the appeal in a letter addressed to counsel for claimant-employe under date of January 6, 1953.

Counsel for claimant-employe has been advised that the carrier will reproduce the record of the trial held on May 28, 1952 and that the same will be submitted as an exhibit to the carrier's submission in this case. Accordingly, the said record is not reproduced as part of this submission

imposed upon the claimant after full and proper trial, and on the basis of undisputed evidence of the claimant's guilt of the offense with which charged.

Therefore, your Honorable Board is respectfully requested to deny the claim in this matter.

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.

On May 26, 1952 carrier notified Mrs. Edwena Littlefield, then employed as coach cleaner at 12th Street Yard in Chicago and with seniority date of May 4, 1945, to attend trial on the property in connection with the following charge:

> "Found picking up two bundles from concealment in coach 4019, track 8 Coach Yard at 2:55 P. M. on 5-25-52, containing 9 packages PRR coffee, 4 boxes sugar, 2 drinking glasses."

Said trial was held on May 28, 1952 and on June 10, 1952 carrier issued notice of Claimant Littlefield's dismissal from the service, the "Outline of Offense" reading the same as the quoted charge.

The facts are as follows: While on duty in the coach yard on May 25, 1952, Mrs. Littlefield and another employe (who was also subsequently dismissed from service) discovered by accident on a linen truck a bag which held, in addition to linen, approximately 40 packages of coffee, some water tumblers and several 2 lb. boxes of sugar. Carrier's name was stamped on the coffee packages. Mrs. Littlefield took from the bag four packages of coffee, two boxes of sugar and two water tumblers, wrapped these items in a white cloth (along with a child's dress given her by another employe who had found same in a coach), and shortly before quitting time placed said bundle behind some pillows in the luggage compartment of coach No. 4019. After changing her clothes, the claimant returned to this coach and while in the process of removing said bundle she was apprehended by a Sergeant of carrier's Police Department. The Sergeant had previously observed Mrs. Littlefield carry the bundle to coach No. 4019. Claimant admits the essential facts in this case and also admits she intended to carry home the above-listed items.

Claimant contends she was charged only with "picking up two bundles from concealment" (the two bundles referring to her bundle and the bundle of her fellow employe who was similarly charged), that removing from concealment is not a prescribed offense, and that the disciplinary action was therefore improper. It is argued she was discharged for theft without being charged with theft. It is further asserted that even if she had been charged with theft and such charge were proven, dismissal would still have been improper, or at least too severe. Claimant contends actions of this kind represent a common practice among carrier's employes, and that her otherwise good record should also be considered.

Carrier responds claimant knew she was being charged with pilfering, that she failed to plead at the trial she was not correctly advised of the offense for which she was being tried, and that pilfering of carrier's property—while perhaps more common than it should be—cannot be condoned under any circumstances.

We find claimant had good reason to know she was being charged with improper possession of carrier's property, and with intended conversion to her own use. She knew the items were carrier's property. She had no right to their possession, nor any right to convert them to her own use. It strains our credulity to accept her contention she felt she was doing nothing wrong. Nor can we accept the doctrine, which claimant appears to advance, that the penalty should be reduced because the items were not of substantial value. Carrier is entitled to expect its employes will remain honest in all matters of this kind, not solely where substantial value is involved.

In conclusion, we are of the opinion and find that carrier was neither arbitrary, discriminatory or capricious in dismissing claimant from its service, and that the claim must therefore be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 8th day of December, 1954.