

Award No. 4869
Docket No. 4808
2-PULL-EW-'66

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Donald F. McMahon when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Electrical Workers)

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That Electrician F. L. Holmes was unjustly discharged from the service of the Pullman Company, effective November 16, 1964.
2. That accordingly, the Pullman Company be ordered to reinstate this employe and to compensate said employe for all time lost since November 16, 1964.

EMPLOYEES' STATEMENT OF FACTS: F. L. Holmes, hereinafter referred to as the claimant was employed by the Pullman Company, hereinafter referred to as the carrier, as an electrician November 5, 1956 at the Calumet Shops. Prior to this the claimant worked as a laborer, in the Calumet Shops from December 31, 1952 to the date he was employed as an electrician and during his 12 years of employment, has been a faithful employe. Under date of October 19, 1964, the carrier elected to notify claimant to appear for a hearing at 10:00 A.M. on October 22, 1964, on the following charge:

"You have involved the Pullman Company in your personal financial affairs in violation of Company regulations by failing to meet your financial obligations, which has resulted in a creditor taking legal action against The Pullman Company by serving demands upon your wages."

The hearing was held as scheduled, and following the hearing, in a letter dated November 16, 1964, Shop Manager W. R. Hamilton informed claimant that he was to be discharged effective with the date of the letter. On November 20, 1964, a letter from the Shop Committee, dated November 16, 1964, was received by General Chairman C. H. Brown, requesting that the decision of W. R. Hamilton be appealed.

In a letter dated December 14, 1964, General Chairman Brown notified Mr. R. J. Wurlitzer that the decision of Mr. W. R. Hamilton was being appealed and asked for a conference on the appeal.

the assignment to the National City Bank of New York, which was effective as of June 1, 1947. * * * Nor does the fact that claimant obtained a release of his assignment to the National City Bank of New York subsequent to the hearing change the fact that he was guilty of the offense. It is the factual situation which the evidence offered at the hearing establishes upon which the carrier must base its decision. If that establishes guilt of the offense charged then discipline may be imposed." (See also First Division denial Award 18389.)

In the light of the awards discussed in this Point 2, the company submits that its action in discharging Electrician Holmes cannot by the widest stretch of the imagination be considered an unjust act. The proof in the record is persuasive of the fact that this employe, although he may have been well-intentioned, was unable to prevent his being repeatedly involved in financial problems. When the precise regulations of the company are considered, the discharged employe has no defense and as stated in denial Award 20409, quoted herein, "Grievant has no contractual complaint, no matter how much we may sympathize with his as an individual."

CONCLUSION

In this submission, the company has shown that the discharged employe was guilty of having involved the company in his personal financial affairs in violation of precise company regulations. Also, the company has shown that the representatives of the employe recognized that the charge was sustained by the evidence and that there was nothing it could do in behalf of the employe except to ask for leniency. Further, the Company has shown that the employe had been given three previous hearings on the same charge and had been separately penalized in each of the three previous instances, which instances were properly used in the measurement of discipline in the instant case. Finally, the company has shown that the National Railroad Adjustment Board has in prior awards strongly upheld the penalty of discharge in cases involving wage assignments and garnishments.

Inasmuch as the evidence of record proves the charge, which fact is admitted by the Organization, the Company submits that the claim in behalf of Electrician Holmes is lacking in merit; and it should be denied.

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.

Parties to said dispute were given due notice of hearing thereon.

The record here shows on October 22, 1964, Carrier conducted a hearing on the charge preferred by it against the employe F. L. Holmes — Electrician. Pertinent part of the charge against the employe is,

"You have involved the Pullman Company in your personal financial affairs, in violation of Company regulations."

Carrier was served with a Wage Deduction Summons, in reference to a Judgment entered against the employe in the Municipal Court of the City of Chicago on September 29, 1964. The record here shows also that on three other occasions the employe has involved the Company in his financial affairs.

From a review of the record here, we find the claim before us is without merit, and further that Carrier did not unfairly or unjustly discharge the employe from its service.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **SECOND DIVISION**

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of May 1966.