



Award No. 5703

Docket No. 5500

2-Pull-EW '69

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee George S. Ives when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO
(ELECTRICAL WORKERS)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the terms of the current agreement Electrician G. C. Salis was unjustly discharged from the service of The Pullman Company, effective January 9, 1967.
2. That accordingly, the Pullman Company be ordered to restore Electrician G. C. Salis to the service and compensate him for all time lost, including vacation rights, Health and Welfare benefits and any other benefits he would have had if he had remained in service.

EMPLOYEES' STATEMENT OF FACTS: Electrician G. C. Salis, hereinafter referred to as the Claimant, was regularly employed as an electrician by the Pullman Company, hereinafter referred to as the Carrier. He was employed by the Carrier on December 22, 1936 as a coach cleaner in the Illinois Central Yards. On November 16, 1941 Claimant was employed as an electrician, and during the years of his employment he has been a faithful employee.

Under date of November 23, 1966, the Carrier notified Claimant to appear for an investigation on December 2, 1966 at its office, 1501 S. Indiana Avenue, Chicago, Illinois, to answer the following charges:

"You refused to follow instructions relative to starting time of your job, failed to report for work at your scheduled reporting time on November 2, 3, 4, 9, 10, 16, 17, and 18, 1966, and reported for work approximately 1:30 hours late on each of the nine days."

Charge in another case held the same day as follows:

"You refused to follow instructions relative to starting of your job, failed to report for work at your scheduled reporting time on November 23, 25, 30, December 1 and 2, 1966, and reported for work approximately 1:30 hours late on each of the five days."

record, which procedure it has been shown herein is confirmed by awards of the Second Division and other Divisions of the National Railroad Adjustment Board. Finally, it is proved herein that the action taken with Electrician Salis in each of the two cases was not unjust treatment of the former employee.

The Organization's claim in behalf of Electrician Salis is without merit as such action applies to either case and should be denied.

(Exhibits not reproduced.)

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 waived right of appearance at hearing thereon.

This discipline case arises out of the claimant's dismissal from service on January 9, 1967 because of his refusal to follow instructions relative to the starting time of his position and his failure to report for work at the scheduled reporting time on various specified dates during November and December, 1966. Petitioner urges that the discharge of claimant was too drastic in light of his thirty (30) years of service as well as extenuating circumstances which required him to work on two jobs.

The record reveals that claimant informed his supervisor that he could not report to work at 3:00 P.M. on Wednesdays, Thursdays and Fridays on a bid position which he was filling during the period involved in this dispute because he was working another job for a different employer with regular hours between 8:00 A.M. and 4:30 P.M. He was advised that he would have to report at 3:00 P.M. to protect certain trains in the station on this shift and that failure to do so would result in a hearing. Despite the warning, claimant commenced reporting late on specified dates in November and December, 1966.

Two separate charges were filed against claimant arising out of the same continuing course of action. Separate hearings on each charge were conducted on December 22, 1966 and claimant was discharged on January 9, 1967 on the basis of the second charge. The fundamental issue here involved is whether the dual disciplinary action taken by Carrier was proper under the circumstances.

It is undisputed that the claimant refused to follow instructions to report at the beginning of his shift, and that this act of insubordination was repeated over a period of time. On the basis of all the evidence of record, we must find that the claim was handled on the property ultimately as a request for leniency. This Board has no authority to entertain such a claim unless the penalty involved is clearly excessive. (Award No. 4646.) No question of procedural defects nor a denial of claimant's guilt is involved, and we will not upset the punishment decided upon by the Carrier.

Accordingly, the Claim will be denied.

A W A R D

Claim denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division**

**ATTEST: Charles C. McCarthy
Executive Secretary**

Dated at Chicago, Illinois, this 29th day of May, 1969.