



**Award No. 5733**

**Docket No. 5596**

**2-PC(NYNH&H)-CM '69**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

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

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 17, RAILWAY EMPLOYEES'  
DEPARTMENT, AFL-CIO (CARMEN)**

**PENN CENTRAL COMPANY (NEW YORK, NEW HAVEN  
& HARTFORD RAILROAD COMPANY)**

**DISPUTE: CLAIM OF EMPLOYEES:**

1. That the New Haven Railroad, hereinafter referred to as the Carrier, unjustly suspended Painter, Mitchell Pierce, hereinafter referred to as the Claimant, on December 20, 1965, in violation of the terms of the current agreement.
2. That accordingly the Carrier is requested to reimburse the Claimant for all time lost between December 8th, and December 27th, 1965, both dates inclusive, with the exception of December 13th, 1965.

**EMPLOYEES' STATEMENT OF FACTS:** The claimant is employed by the Carrier as a painter in the New Haven, Conn., Passenger Yard, with hours 8-4 and rest days Sunday and Saturday. On Wednesday, December 8, 1965, the claimant reported for work at his regular starting time and was assigned to car #475. Subsequent to his assignment, at about 8:20 A.M., Painter Foreman Paul Johnson, interviewed the claimant and alleged that he was "intoxicated" and ordered the claimant to report to General Foreman Brooks.

The claimant stated, that because of personal reasons, he would rather go home, as he was sick, and did not want to report to General Foreman Brooks, instead he went to the locker room to change his clothes preparatory to going home.

In the meantime Foreman Johnson reported the incident to General Foreman Brooks who went to the locker room and after talking with the Claimant, he, Brooks, accused the Claimant of being "intoxicated". Subsequently the claimant received a letter dated December 8, 1965 over the signature of General Foreman E. F. Brooks, stating that he was being held out of service, copy of which is attached and marked Exhibit "A".

The claimant also received another letter dated December 8, 1965, over

All of the facts and evidence contained herein have been affirmatively presented to the Employees.

(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 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 waived right of appearance at hearing thereon.

This is a discipline case.

The record supports findings that: (1) Claimant was afforded due process; (2) there is substantial evidence to support Carrier's finding that Claimant was guilty as charged; and (3) the discipline assessed by Carrier was not unreasonable. We, therefore, must deny the claim.

#### 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 27th day of June, 1969.