

Award No. 1425

Docket No. 1346

2-Pull-EW-'51

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Frank M. Swacker when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1—That under the current agreement, Electrician Michael Reap, Jr., considers that he was unjustly treated when suspended and dismissed from the service respectively on July 11 and December 5, 1949.

2—That accordingly the Pullman Company be ordered to reinstate this employe in the service with seniority unimpaired with compensation for all time lost retroactive to July 11, 1949.

EMPLOYES' STATEMENT OF FACTS: Michael Reap, Jr., hereinafter referred to as the claimant, was regularly employed by the Pullman Company, hereinafter called the carrier, as an electrician on May 8, 1947 at Sunnyside Yards, Long Island City, New York, and his assignment of hours was on the second shift from 4:00 P. M. to 12 Midnight.

This claimant was elevated by his craft to the position of a committeeman on July 14, 1948 and as chairman of the local committee of his craft on December 28, 1948.

The carrier suspended this claimant from the service on July 11, 1949 on charges of having interfered with the orderly assignment of work to employes on July 9, 1949, and for having failed to comply with instructions issued to him concerning repairs to car Whigville and walking off the job.

These charges were addressed to the claimant under date of July 16, 1949, which summoned him to stand trial at 1:30 P. M. on July 19, 1949.

The hearing was held as scheduled but was finally recessed and by arrangements between the parties, was reconvened and concluded on September 22, 1949, as that record was amended on December 2, 1949.

The carrier's general foreman discharged the claimant from the service on December 5, 1949, a copy of which is submitted herewith and identified as Exhibit "A".

stantial evidence to sustain charges the findings based thereon will not be disturbed; (3) if the Carrier has not acted arbitrarily, without just cause, or in bad faith its action will not be set aside; and (4) unless prejudice or bias is disclosed by facts or circumstances of record it will not substitute its judgement for that of the Carrier." (Cf. Awards 419, 431, 1022, 2297, 2632, 3125, 3235, 4226, 4229, and 4269.)

There has been no abuse of discretion in the action taken by the company with Reap for his improper conduct on two different occasions in July, 1949, nor was the action capricious, unreasonable, unjust, or in abuse of the company's discretion. The company submits that its action in discharging Reap was fully justified by the facts of record.

The claim in behalf of Reap 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.

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

The Second Division sees no reason to disturb the discipline administered.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 16th day of March, 1951.