

Award No. 2118

Docket No. 1926

2-PULL-CM-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

(1) That, under the current agreement, Ronald Marrero was unjustly discharged on February 1, 1955.

(2) That, accordingly, The Pullman Company be ordered to restore Marrero back to service, with seniority rights unimpaired and paid for all time lost since February 1, 1955.

EMPLOYEES' STATEMENT OF FACTS: Carman Ronald Marrero, hereinafter referred to as the claimant, entered the service of the Pullman Company, hereinafter referred to as the carrier, on November 25, 1942. Claimant is assigned to the 9:00 A. M. to 5:30 P. M. shift in the Philadelphia (Pennsylvania) District Monday through Friday, rest days—Saturday and Sunday.

Under date of December 30, 1954, Foreman Smith directed a letter to the claimant, citing him for investigation in connection with certain charges set forth in the aforementioned letter, to be held at Foreman Smith's office at 11:00 A. M., January 11, 1955. A copy of the transcript of the hearing is submitted herewith, identified as Exhibit A.

Under date of February 1, 1955, Foreman Smith directed a letter to the claimant, advising him that he was discharged from the service of The Pullman Company—a copy of which is submitted herewith and identified as Exhibit B.

This dispute has been handled with the carrier up to and including the highest designated officer of the company, with the result that he has declined to adjust it.

The agreement effective June 16, 1951, as it has been subsequently amended, is controlling.

of a similar nature appearing on Marrero's service record. The company properly discharged Marrero from service for his malperformance in refusing to report for work as instructed on December 1, 1954.

The claim in behalf of Marrero is without merit and 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 carmen of System Federation No. 122 contend that Carman R. F. Marrero was unjustly discharged from service by the company on February 1, 1955. They request that he be restored to service with seniority rights unimpaired and paid for all time lost.

There is substantial evidence in the record of the investigation that Foreman A. Smith directed Marrero to report for work at 8:30 A. M., one-half hour prior to his regular reporting time on December 1, 1954. Marrero refused to report as instructed unless he was paid two hours and forty minutes for so doing which was in excess of the time provided for in the rules. He failed to report for the overtime work.

The organization contends that the carrier discriminated against Marrero because of his union activities. The record does not disclose such to be the fact. Marrero was instructed to work the overtime. Three witnesses testify to this fact. He refused. Employes as a general rule must perform the work as directed and in case of contract violation seek redress under the terms of the agreement. Chairmen and committeemen of the organization come within this rule the same as any other employe. They must not confuse the duty they owe the carrier as an employe with their duty to the organization. To permit work to go undone until arguments over rule interpretations can be settled would permit the service of the carrier to become chaotic and intermittent. The employe must follow the instructions of his superiors and if rights accrue under the agreement they can be enforced through methods provided in the agreement. Award 1547. See also Award 3218, Third Division.

The record shows on January 8, 1954, Marrero refused to comply with similar instructions and was disciplined by the imposition of a fifteen day suspension from service. This is a matter which the carrier can properly consider in administering discipline.

The decision of the carrier is supported by the evidence. It, therefore, is not arbitrary, capricious or unreasonable. We can find no reason to disturb the action taken by the carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May, 1956.