

**Award No. 2464**  
**Docket No. 2384**  
**2-SP(PL)-CM-'57**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Dudley E. Whiting when the award was rendered.

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 114, RAILWAY EMPLOYES'**  
**DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

**SOUTHERN PACIFIC COMPANY (Pacific Lines)**

**DISPUTE: CLAIM OF EMPLOYES:** That under provisions of current agreement Passenger Carman Raul M. Perez was unjustly dismissed from the service on October 27, 1955, and that accordingly, Carrier be ordered to reinstate him with all pertinent rights of employment and compensation for all time lost retroactive to the aforementioned date.

**EMPLOYES' STATEMENT OF FACTS:** The Southern Pacific Company (Pacific Lines), hereinafter referred to as the carrier employed Passenger Carman Raul M. Perez, hereinafter called the claimant from 4:00 P. M. to 12:00 P. M. at Mission Road Coach Yard, Los Angeles, California, and that claimant had been in the service of the carrier for approximately seven years, and had maintained his position satisfactorily and accordingly since date of employment.

The carrier's representative, J. C. Orr, general passenger car foreman summoned the claimant to appear for formal hearing at 4:30 P. M., October 10, 1955, on alleged charges of absenteeism from prescribed site of his assignment and suspicious of alleged indulgence in intoxicating beverages, and which summon is affirmed by copy of letter dated October 6, 1955, identified as Exhibit A. Hearing was held as scheduled, confirmed by Exhibit B.

Carrier's general passenger car foreman, also, at that time, made the election to summon as his witnesses, at this Oct. 10, 1955 hearing, Assistant General Passenger Car Foreman I. B. Hatch; Departmental Car Foreman K. D. Jones and Assistant Car Foreman N. E. Carlson, which aforementioned names are contained in Exhibit B, page No. 1.

The carrier, nevertheless, made election, through its Los Angeles Master Mechanic D. Brown, on October 27, 1955, to dismiss claimant from services of carrier and this is affirmed by copy of letter dated Oct. 27, 1955, submitted herewith and identified as Exhibit C.

This dispute has been handled with carrier up to and including the highest officer so designated by carrier to handle disciplinary cases of this type, with the result that he declined to adjust it, which is affirmed by letter signed by

Board to follow the logical and established principle set forth above and require that any and all earnings by the claimant during the period for which compensation is claimed be deducted.

### CONCLUSION

Having conclusively established that the claim in this docket is without merit, carrier respectfully submits that it 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 waived right of appearance at hearing thereon.

The evidence presented at the investigation was conflicting. We note that claimant at first denied having any drinks before going on duty or while on duty, but subsequently admitted having some drinks before going on duty. Also he first denied hearing the foreman page him on the loud speaker several times, but later testified that he probably heard them but was too busy with his train.

Upon consideration of the whole record we find that the carrier's decision is supported by probative evidence adduced at the investigation.

### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By ORDER of SECOND DIVISION

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of June, 1957.