

Award No. 4560
Docket No. 4628-I
2-N&W-I-64

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

ROY HAMPTON, JR.

NORFOLK AND WESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF PETITIONER: The petitioner, Roy Hampton, Jr., requests that the National Railroad Adjustment Board reinstate him to his former position, restore his seniority, and award him all back wages.

PETITIONER'S STATEMENT OF FACTS: The petitioner, Roy Hampton, Jr., was dismissed from the Norfolk and Western Railway Company. This was done by Mr. H. T. Sutton, general foreman of the Piers, Lamberts Point, Norfolk and Western Railway Company, Norfolk, Virginia. Mr. Sutton stated:

In reference to the investigation held in my office Friday, November 9, 1962, at 8:30 A. M., account of you being charged with violation of Vice President and General Manager's General Notice of December 1, 1954, by permitting your wages to be attached in favor of the Treasurer, County of Princess Anne, in the amount of \$13.87.

As a result of this investigation, you are hereby dismissed from the services of the Norfolk and Western Railway Company, effective 7 A. M., November 27, 1962. You will please return to my office whatever company material or equipment you may have in your possession, i.e., annual pass, safety rule book, etc.

(Signed) H. E. Sutton
General Foreman—Piers

To the above action, Roy Hampton, Jr. is submitting this ex parte submission. He respectfully requests that he be restored to his former position as above set forth. The tax lien in question was served on Roy Hampton, Jr. It was stated that, lest payment be made on or before the ninth day of November, Mr. Etheridge would apply to a justice of the peace to take appropriate action. That Mr. Hampton paid the lien is evidenced by the money order to Mr. V. Alfred "Jack" Etheridge, treasurer for Princess Anne County, of \$13.87; and also is evidenced by his tax assessment which is marked paid, in the amount of \$13.87; and also is evidenced by the letter of Mr. V. A. Etheridge, as Treasurer, dated May 16, 1963.

The other pertinent facts are that Ray Hampton had been employed by the Railway since March 12, 1951, and had been constantly employed except for one period in 1954 when he was furloughed as a result of reduction in forces.

ation. What might be just and fair discipline to an employe whose past record is good might, and usually would, be utterly inadequate discipline for an employe with a bad record."

Also, see Second Division Award No. 1367, which stated that it was not only proper but essential, to take into consideration the employe's past record. Carrier asserts that Mr. Hampton was afforded a fair and impartial hearing. A tax lien was entered against his wages, carrier did not act in a capricious or arbitrary manner, the discipline was not harsh and was entirely justified.

Carrier has shown that this dispute is without merit and requests 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.

Parties to said dispute waived right of appearance at hearing thereon.

In order that this Board may assume jurisdiction of a dispute on petition, it must appear that the dispute has been handled in the usual manner in negotiations with the carrier as provided by the statute; and that it is only in case there has been a failure to reach an adjustment in the manner so provided that this Board will review such proceedings. In the instant case, there was no compliance with the statute on the part of petitioner. The usual manner of negotiating with the carrier was not complied with. There was no failure to reach an adjustment in the usual manner. Petitioner, having failed to pursue the required method of presenting his grievance, which in this case was that provided by the agreement between the carrier and the employes, this Board is without jurisdiction to pass upon petitioner's claim.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 13th day of July 1964.