



Award No. 5787

Docket No. 5702

2-PULL-EW '69

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO
(Electrical Workers)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the terms of the current agreement, Electrician B. F. Grosvenor was unjustly discharged from the service of The Pullman Company, effective April 15, 1968.
2. That accordingly, The Pullman Company be ordered to restore Electrician B. F. Grosvenor to the service and compensate him for all time lost, including vacation rights, Health and Welfare benefits and any other benefits he would have had if he had remained in service.

EMPLOYEES' STATEMENT OF FACTS: Electrician B. F. Grosvenor, hereinafter referred to as the claimant, was regularly employed as an electrician by The Pullman Company, hereinafter referred to as the carrier. He was employed by the carrier on November 16, 1937 as an electrician and during the years of his employment he has been a faithful employee.

Under date of March 11, 1968, the Carrier notified claimant to appear for an investigation on March 20, 1968 at Jacksonville Agency in the office of Agent Foreman G. K. Ebersole at Jacksonville, Florida, to answer the following charges:

- "1. You left work without permission or authority prior to 8:44 P.M. on Feb. 7, 1968, and falsified your time card to show that you remained at work until 10:00 P.M. on that day.
2. You were under the influence of intoxicants during your tour of duty on Feb. 18, 1968.
3. You left work without permission or authority prior to your assigned quitting time at 11:00 P.M. on Jan. 23-24-28-30—Feb. 4-6-7-12-15-20-21 and March 5-7-10."

The hearing was held as scheduled, and following the hearing, in letter dated April 15, 1968, Agent Foreman G. K. Ebersole informed claimant that he was discharged effective with the date of the letter.

fore, have consistently held that the Carrier's disciplinary action can successfully be challenged before this Board only on the ground that it was arbitrary, capricious or fraught with bad faith. See: Second Division Awards 1323, 1575, 2996 and 3081. The record in the instant case does not show that the Claimant's dismissal was influenced by such unreasonable or illogical considerations on the part of the Carrier."

All other comparable awards of the National Railroad Adjustment Board bearing upon the point at issue in these three cases are by reference made a part of this submission.

CONCLUSION: In this ex parte submission the company has shown that Electrician Grosvenor, Jacksonville Agency, was subject to the provisions of the working agreement which provides that regular electricians' positions shall be established covering 8:00 hours of work per day and 40 hours of work per week. Further, the company has shown that Electrician Grosvenor was put on notice by his supervisor that he was to complete his tour of duty unless otherwise excused. The company has also shown in this submission that Electrician Grosvenor was subject to the discipline rule, Rule 52 of the agreement when he was under the influence of intoxicants during his tour of duty as electrician in the Jacksonville Terminal station on February 18, 1968 and in 2 separate cases when he deserted his assignment prior to his scheduled quitting time without permission or authority. Finally, it is proven herein that the action taken with Electrician Grosvenor in each of the three cases was not unjust treatment of the former employee.

The organization's claim in behalf of Electrician Grosvenor is without merit as such action applies to none of the cases 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.

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

The Claimant in this case was discharged from the service of The Pullman Company effective April 15, 1968. He had been officially charged with going off duty without permission on specific days, falsifying his time card on one particular day and with being under the influence of intoxicants on another day.

A hearing was held, proper notice having been granted, during which testimony was received from various witnesses relative to each of the charges. The hearing itself was conducted in an exemplary manner. The record of evidence was sufficiently substantial to warrant The Pullman Company's decision of dismissing Claimant from service. In the absence of proven mitigating circumstance we have no alternative but to sustain the decision of the Company and accordingly will 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 24th day of October, 1969.