

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: "For and in behalf of H. B. Williams who was formerly employed by The Pullman Company as a sleeping car porter, operating out of the New York Central District of New York City. Because of the discharge of H. B. Williams from his position as porter in the said district by the Pullman Company, unjustly and without sufficient reason on May 12, 1938, and for the restoration of H. B. Williams to his former position as a sleeping car porter in the New York Central District without loss of seniority rights and with pay for all time lost by H. B. Williams by reason of such discharge."

EMPLOYEES' STATEMENT OF FACTS: "The petitioner, the Brotherhood of Sleeping Car Porters, respectfully submits that it is the duly authorized and designated representative of all porters, attendants and maids in the employ of the Pullman Company, under the provisions of the Railroad Labor Act.

"Your petitioner further represents that in such capacity it is the duly authorized representative of H. B. Williams who was formerly employed by the Pullman Company operating out of the New York Central District, New York city.

"Your petitioner further submits that H. B. Williams, prior to his discharge from the service of the Pullman Company, worked for said company some thirteen years.

"Your petitioner further sets forth that H. B. Williams was assigned to car Vallejo, Line 2021, Train 76 en route Miami, Florida to New York City leaving Miami January 1, 1938, due to arrive in New York, January 3, 1938.

"Your petitioner further submits that on the following morning after leaving Miami, about 2:30 A. M. after he had retired, a passenger came into the smoking room, pulled back the curtain of his berth and demanded that he get up and get his (the passenger's) bags which had been deposited in one of the cars at the front of the train; and that he advised the passenger that he was off duty and that the porter on the next car, who was on duty, would get his bags for him.

"The petitioner further says that this passenger became loud-voiced and angry and made insulting remarks to him; and that then he (Williams) observing that passenger was under the influence of liquor, got up and went ahead, obtained the bag, brought it back and placed it in upper six, over berth occupied by said passenger.

"Petitioner further represents that this passenger got off of the train at Jacksonville, Florida and was transferred to the first section of the train.

According to the evidence introduced in the hearing, Porter Williams was in bed at 2:19 A. M., before Porter Sims was due to be up and on guard; therefore, Porter Williams disregarded these regulations by failing to be certain that Porter Sims, who was scheduled to relieve him, was up and on duty.

"The minutes show that no evidence has been introduced by Porter Williams' representatives to contradict, deny or discredit in any manner, the authenticity or truthfulness of the reports and statements submitted by the Company in this dispute.

"Porter Williams' record, introduced in the hearing, shows his services have been unsatisfactory on other occasions.

"This Division on numerous occasions in its awards, has repeatedly stated that the control by the employer over the employe should not be interfered with in the absence of clear abuse of discretion. There has been no abuse of discretion in the action taken in the case of Porter H. B. Williams.

"Through the information furnished in this submission, we have clearly demonstrated that Porter Williams has not been discharged 'unjustly and without reason,' and that he is not entitled to be restored to his former position as porter in the New York District 'without loss of seniority rights and with pay for all time lost', as claimed by the petitioner.

"The minutes of the hearing prepared by this Company were offered to Porter Williams' representatives who refused to accept them. However, there being little difference between our minutes and theirs, and to avoid any issue, the latter version is presented as our Exhibit 'A'."

OPINION OF BOARD: The evidence of record discloses no grounds for disturbing the action of the carrier.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

That the carrier and the employe involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the evidence of record discloses no grounds for disturbing the action of the carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 29th day of November, 1938.