

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILROAD STATION EMPLOYES
BOSTON AND MAINE RAILROAD**

STATEMENT OF CLAIM: "Reinstatement of William Herlihy, Jr., to crossing position at Newbury, Mass., Carrier in error in discharging Herlihy. Herlihy was entitled to a fair and impartial hearing and complete investigation necessary as required by provisions of agreement in effect between carrier and employes, before a decision could be rendered by the carrier. Failing to find evidence of neglect of duty, it is not the right of any carrier to discharge an employe for partaking or purchasing liquor when off tour of duty."

STATEMENT OF FACTS: William A. Herlihy, Jr., entered the service of the Boston & Maine Railroad on December 9, 1926, as section man and, on request, was transferred to duty as crossing watchman on June 29, 1937. He was removed from duty on April 21, 1938 account alleged violation of rules, and was dismissed from service April 27, 1938 for "violation of rule 'G' at Newbury, Mass., April 21, 1938."

There was placed in evidence an Agreement between the parties, effective August 16, 1927, and a copy of Carrier's Operating Rules.

OPINION OF BOARD: Examination of the evidence of record discloses no grounds for disturbing the disciplinary action of the management.

FINDINGS: The Third Division of the Adjustment Board 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 both parties to this dispute waived hearing thereon.

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

That the Board finds no grounds for disturbing the disciplinary action of the management.

AWARD

The claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 30th day of March, 1939.