

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

John W. Yeager, Referee

PARTIES TO DISPUTE:

ORDER OF SLEEPING CAR CONDUCTORS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: Conductor J. S. Melson, Washington District, who was discharged from service on June 30, 1941 on the charge of intoxication at Columbus, Georgia, contends that the charge is untrue and requests reinstatement to service as conductor and pay for all time lost beginning with May 7, 1941.

OPINION OF BOARD: This is a claim by the Order of Sleeping Car Conductors that J. S. Melson, a conductor, was on June 30, 1941 improperly discharged by The Pullman Company, and that Melson is entitled to reinstatement to service as conductor and to compensation for loss of time from May 7, 1941, to date when he was taken out of service.

No substantial irregularity is charged or found in the proceedings involved leading to the discharge or progressing of the claim, so therefore we are confronted only with the question of whether or not the facts as disclosed by the record were sufficient to justify dismissal from service by the Company. The Company contends that Melson was intoxicated while on duty. Melson claims that he was not.

April 13, 1941 at 6:45 P. M. Melson left Washington as a conductor. He arrived at Atlanta, Georgia April 14, 1941 at 9:00 A. M. where he completed his run. About noon of that day he reported to the Assistant Superintendent to obtain return passage. Instead of obtaining a return pass he was given a trip pass to Columbus, Georgia where he was ordered to a run the following morning. The train on which he was given the pass left Atlanta about 4:30 P. M. April 14, 1941 and arrived at Columbus at about 8:00 P. M. the same day.

It is claimed by the Company that Melson was intoxicated when he arrived at Columbus to the degree that his movements were unsteady and it is pointed out that he was not in possession of his normal faculties. Two witnesses gave testimony as to details. One was the Service Inspector of the Company and the other an Electrical Repairman. If the statements of these witnesses were true there can be no question of the propriety of the action of the Company.

Melson admitted drinking some beer at Atlanta and tacitly admits that some of his actions were a departure from the ordinary, but insists that they were occasioned by weariness and loss of sleep and not intoxication.

While he may have lost sleep as claimed the necessity for such loss on the face of the record is clearly exaggerated.

As has been often pointed out the position of a carrier employer with regard to protection of properties and with regard to the safety and well being of people using or contacting the carrier is such that the carrier should be allowed a reasonable discretion in the matter of discipline of its employes. To that end this Board should carefully examine all of the facts and circumstances surrounding such matters and should not disturb the judgment of the carrier on matters of discipline unless such examination discloses that the action was arbitrary, capricious or clearly wrong.

On the record this Division cannot say that the Company abused its discretion.

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 claim has not been sustained.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 18th day of June, 1942