

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Elwyn R. Shaw, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: For and in behalf of Tom Mason who is now and for a number of years past has been employed by The Pullman Company as a porter operating out of the Chicago Western District. Because The Pullman Company did, under date of June 25, 1941, take disciplinary action against porter Mason by penalizing him with a twenty-five (25) day suspension without compensation which action was unjust, unreasonable, in abuse of the Company's discretion and based upon charges unproved. And further for porter Mason's record to be cleared of the charges made against him in this case and for him to be compensated for the twenty-five (25) days' pay lost as a result of the disciplinary action taken.

OPINION OF BOARD: Porter Tom Mason complains because he was disciplined by penalty of 25 days' suspension without pay which he claims was an unreasonable act and an abuse of the Company's discretion and based upon unproved charges.

Porter Mason reported for duty at the Oakland Pier in the San Francisco District on the evening of April 28, 1941. Night Agent W. A. Hunt visited the sleeping car in charge of Mason and says that he noticed a strong odor of liquor on Mason's breath. Mr. Hunt then reported what he noticed to Night Superintendent Krieman and they went together to Mason's car and the Night Superintendent verified the findings of the Night Agent. Mason was thereupon relieved of duty, another Porter was provided for the car and Mason deadheaded back to Chicago. Mason denied that he had drunk anything and produced written statements from some other Porters who had been near him to the effect that they had not smelled any liquor. These same Porters substantially recanted what they previously had written.

The discipline imposed is entirely reasonable and there is nothing for decision but a question of fact. In order to believe Mason's denial we would have to believe that two responsible agents of the Company wickedly and maliciously contrived an entire false story for no reason whatever. This we cannot do. We find no reason for disbelieving them and the claim should be denied.

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 should be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 25th day of September, 1942.