

Award No. 2652
Docket No. PM-2564

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Curtis G. Shake, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF SLEEPING CAR PORTERS
THE PULLMAN COMPANY**

STATEMENT OF CLAIM: * * * for and in behalf of C. Moore 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 Eastern District. Because The Pullman Company did, under date of June 12, 1943, take disciplinary action against C. Moore by giving him an actual suspension of thirty (30) days on charges unproved; which action was unjust, unreasonable and in abuse of the company's discretion. And further, for C. Moore's record to be cleared of the charges placed against him and for him to be reimbursed for the thirty days' pay lost by him as a result of this unreasonable and unjust action.

OPINION OF BOARD: The claimant was suspended for thirty (30) days on account of (a) reporting one hour and 15 minutes late for his assignment, by reason of which he missed his train, and (b) for being intoxicated at the time of reporting. He admits that he was late, but says that this was caused by unavoidable circumstances. He denies that he was intoxicated.

The petitioner's submission challenges the sufficiency of the proof as to the first charge and emphasizes the conflicting character of the evidence as to the second. As to the second charge, it is enough to say that there was positive proof of probative value to the effect that the claimant reported for work in a very drunken condition. On this state of the record, we cannot weigh the evidence or resolve conflicts therein. Since it must be assumed that the claimant was intoxicated, his explanation of the first charge falls of its own weight. A drunken man could hardly be expected to give rational and dependable testimony as to his own conduct. We must hold, therefore, that the charge was properly established, in both particulars.

Suspension for thirty (30) days for the offenses proved does not impress us as an abuse of 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 employes involved in this dispute are respectively carrier and employes 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 carrier's action is sustained by the evidence and no abuse of discretion appears.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 3rd day of August, 1944.