

Award No. 5206

Docket No. PM-5272

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 S. Kelley No. 1, who was formerly employed by The Pullman Company as a porter operating out of the Pennsylvania Terminal District, New York, New York.

Because The Pullman Company did, under date of April 7, 1950, discharge S. Kelley from his position as a porter in the Pennsylvania Terminal on charges unproved; which action was unjust, arbitrary, and in abuse of the Company's discretion.

And further because the employe in this case did not have a fair and impartial hearing as contemplated under the rules of the agreement effecting the class of employes of which Kelley was a part in that The Pullman Company convicted this employe and deprived him of his right to work on unidentified evidence, and therefore deprived him of the property right in his job in violation of the due process principle provided for in the Constitution of the United States, and which is recognized in all legal and quasi legal bodies where the rights of individuals are involved.

And further, for Kelley to be returned to his former position as a porter in the Pennsylvania Terminal District in New York City, and for him to be paid for all time lost as a result of this unjust, unreasonable, and illegal action.

OPINION OF BOARD: Based upon all the facts and circumstances in this particular case, the Board is not disposed to disturb 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 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 under the facts and circumstances as disclosed by the record in this case we find no basis for disturbing the action of the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 31st day of January, 1951.