

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Adolph E. Wenke, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * * for and in behalf of T. Johnson, who is now, and for some time past has been, employed by The Pullman Company as a porter operating out of the Chicago Northern District.

Because The Pullman Company did, under date of May 7, 1951, take disciplinary action against Porter Johnson by giving him an actual suspension of ten (10) days; which action was based upon charges unproved and was unjust, unfair, unreasonable, arbitrary, and in abuse of the Company's discretion.

And further, because in the hearing of said case, Porter Johnson did not have a fair and impartial hearing as is provided for under the rules of the Agreement governing the class of employees of which Porter Johnson is a part.

And further, for the record of Porter Johnson to be cleared of the charge in the instant case, and for him to be reimbursed for the ten (10) days' pay lost as a result of having been suspended from the service by the Company.

OPINION OF BOARD: The Brotherhood asks, in behalf of T. Johnson, a porter, that his record be cleared of the charges made against him and that he be reimbursed for pay lost during the 10 days he was suspended.

On April 5, 1951 the Company charged Claimant with the following:

"You solicited gratuities from passengers in your car and refused to render services to them unless such gratuities were tendered you."

Hearing was had on these charges on April 12, 1951. By letter dated May 7, 1951, Claimant was advised that as a result of the hearing he was being suspended from service for a period of 10 days commencing 12:01 P.M., May 7, 1951.

Complaint is made that Claimant did not have a fair and impartial hearing within the contemplation of the parties' Agreement because of the nature of the evidence received and because of the manner in which it was obtained by the Company. Hearings contemplated by the parties' effective Agreement are intended to be informal in character. It is not intended that the strict rules relating to evidence which are applied in courts of law shall be applied therein. See Award 2770 of this Division.

This Board has long recognized the use of written statements in lieu of oral testimony. See Awards 4252 and 4976 of this Division. We think the evidence used by the Company was properly obtained and used, since it was material to the issues involved. We find that Claimant had a fair and impartial hearing.

The charges filed against Claimant relate to his conduct while assigned as *porter in special service on tourist car No. 5020 en route Fort Sheridan, Illinois to Lee Hall, Virginia, February 13 to 15, 1951.*

Regulations to these services provide, in part, as follows: "Employees are prohibited from soliciting compensation from passengers for services rendered."

Without setting out in detail the evidence adduced at the hearing, suffice it to say it supports Carrier's finding that Claimant was guilty of the charges made against him and, in view of their nature, the penalty imposed is not unreasonable.

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 Employee involved in this dispute are respectively Carrier and Employee 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 Company gave Claimant a fair and impartial hearing, that there is evidence supporting the Company's finding of guilt, and that the penalty imposed is not unreasonable.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. Ivan Tummon
Acting Secretary

Dated at Chicago, Illinois, this 20th day of February, 1952.