

Award No. 5891

Docket No. CLX-5857

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David R. Douglass, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

RAILWAY EXPRESS AGENCY, INC.

STATEMENT OF CLAIM: Claim of the District Committee of the Brotherhood that:

(a) The agreement between the Railway Express Agency and the Brotherhood of Railway & Steamship Clerks, Freight Handlers, Express & Station Employees effective September 1, 1949, was violated at the Shreveport, Louisiana Agency in the treatment accorded J. J. Cecil, as a result of an alleged investigation conducted June 5, 1950; and

(b) The records shall be cleared of the charge made against him, May 25, 1950, and he shall be reimbursed for wage loss sustained covering the period of suspension, Tuesday, June 13 to Thursday, June 15, 1950, inclusive.

OPINION OF BOARD: This is a claim resulting from discipline administered J. J. Cecil, an Express Driver. Claimant was charged with violating certain company rules and specifically charged with failure to determine that the way was clear before backing his motor truck, also failure to make a report of an accident in which he was allegedly involved. An investigation was held and, thereafter, the Claimant was given a three-day suspension.

The incident, which was the basis for the discipline complained of, involved damage done to a privately owned automobile by a truck which backed into the parked automobile. The automobile was parked in front of the owner's residence.

Evidence was brought out at the investigation to the effect that a negro maid, in the employ of the automobile owner, was an eye witness to the incident; that she had seen a big green Railway Express truck back into the automobile; that the driver stopped by the damaged automobile to look at the damage both prior to and after going across the street to 404 Oneonta Street; that the driver of this Railway Express truck had a piece of luggage in his hand when he went to and returned from the building across the street from the damaged automobile.

The evidence shows that the Claimant, at the end of the day of this incident, had in his possession a suitcase addressed to 404 Oneonta. This was delivered the next day, at which time the truck was identified by the

negro maid as being the same type of truck which had backed into her employer's car the day before.

Examination of the truck disclosed grayish blue paint on the under side bed. This was the same color as that of the damaged automobile. The paint marks on the damaged part of the automobile were red and green. The red paint on the hub of the truck was badly scuffed and the green paint on the fender of the damaged automobile was the same height as the bed of the truck.

Taking all of the evidence of the investigation into account, we are unable to see that the discipline assessed was without reason. All the circumstances indicate that the Claimant was involved in the incident and that the Carrier was justified in its actions. The discipline was not excessive.

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 Employees involved in this dispute are respectively Carrier and Employees 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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Acting Secretary

Dated at Chicago, Illinois, this 28th day of July, 1952.