

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Norris C. Bakke, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

**CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: * * * for and in behalf of Noble Allen who was formerly employed by the Chicago, Milwaukee, St. Paul & Pacific Railroad Company as a porter operating out of Chicago, Illinois.

Because the Chicago, Milwaukee, St. Paul & Pacific Railroad Company did, under date of January 24, 1953, take disciplinary action against Porter Allen by discharging him from the service, which action was based upon charges unproved and was unjust, unreasonable, arbitrary, and in abuse of the Company's discretion.

And further, because Porter Allen did not have a fair and impartial hearing as provided for under the rules of the Agreement.

And further, for Porter Allen to be returned to his former position as a porter for the Chicago, Milwaukee, St. Paul & Pacific Railroad Company with seniority rights and vacation rights unimpaired, and for him to be paid for all time lost as a result of this unjust action.

OPINION OF BOARD: This is a discipline case and involves the same carrier and the same employe as Award No. 6643 announced contemporaneously with the award herein. In Award No. 6643 employe was given a 10 day suspension while in the instant case he was dismissed from service. The 10 day suspension was sustained by denying the claim.

The employe contends here that the charges against him were not proved, and even if proved the discipline was unreasonable and unjust.

The record shows that he had been working for the Carrier for twenty-six (26) years and while his record is not clear, he has never been charged with a serious offense, the principal complaint against him, prior to the bringing of the instant charges was that he was argumentative.

While there were nine (9) charges, plus this employe's past record, that he was faced with the principal ones appear to be that he used paper cups for cigarette trays, did not put the passengers' baggage in the right place, and that he claimed time that he did not put in. As to the use of paper cups, Mr. Pope, the porter instructor when asked if he had any dealings with this employe in regard to the use of paper cups as ash trays replied "No, not to my knowledge." Conceding that the employe did put some baggage in the

vestibule instead of on the racks, the record does not show that this was a regular practice of his, and while he did claim a little extra time on some time slips, he still did not get up to his minimum monthly pay so the railroad was not defrauded out of anything.

We mention these things, not to condone what he did, but to construe them in relationship to this employee's 26 years of service to this Carrier to show that the discipline of dismissal was not warranted.

We think that in view of the complete record herein that the discipline of dismissal was unduly harsh, and that the dismissal should be set aside with seniority and vacation rights unimpaired, but with no pay for time lost.

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 discipline assessed by the Carrier was unduly harsh.

AWARD

That Porter Allen be restored to service with seniority and vacation rights unimpaired, with no pay for time lost.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois this 25th day of May, 1954.