

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Curtis G. Shake, Referee

PARTIES TO DISPUTE:

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

THE PENNSYLVANIA RAILROAD COMPANY

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

Discipline of fifteen days' suspension imposed upon Ruth C. White, Clerk, Pennsylvania Station, New York, New York, New York Division, be removed and that she be reimbursed for all monetary loss sustained.

(Docket N-332)

OPINION OF BOARD: Claimant was assigned as a Parcel Room Attendant in Pennsylvania Station, New York. The station is equipped with coin operated baggage lockers. If one of these lockers is held beyond the time allowed, the baggage therein is removed and a ticket is placed in the locker advising the patron that he may claim his baggage by presenting this ticket at the parcel room. The baggage is then taken to the parcel room, deposited on the floor and subsequently placed in the racks.

On the day in question a patron presented himself at the parcel room with two small bags or parcels and asked that these be placed with his other baggage. The parcel room was busy and the patron was required to wait his turn before he reached the counter. When he made his request the Claimant asked to see his locker ticket. This apparently vexed the patron and he charged the employe with doubting his word. The Claimant called the Head Parcel Room Attendant and a heated conversation ensued among the three persons involved. The evidence as to what was really said is highly conflicting and we will not undertake to resolve that issue. The Head Parcel Room Attendant asserted that the Claimant refused his request that she remove the accumulated baggage from the floor to the racks.

The Head Parcel Room Attendant charged the Claimant with "insubordination by refusal to obey instructions of the immediate supervisor." A hearing was held at which the aggrieved patron was not present. As a result of the hearing the Claimant was suspended for fifteen days. She asks that the suspension be removed from her record and that she be reimbursed for all monetary loss sustained.

After a careful consideration of the record we find ourselves unable to say that it does not contain some evidence which supports the charge. On the other hand, there is testimony which, if believed, would be calculated to sustain the contention of the Claimant.

We are mindful of the rules that preclude us from weighing the evidence and from substituting our judgment for that of the trier of the facts. We do, however, have the right to exercise a sound discretion with respect to the penalty imposed.

Taking into account all of the facts and circumstances as disclosed by the record before us, we cannot escape the conclusion that the penalty was fixed in an atmosphere that falls somewhat short of that standard of calm deliberation and impartial consideration that ought to prevail in a proceeding of this character. It will, therefore, be ordered that the suspension be reduced from fifteen days to five days.

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 Carrier violated the Agreement to the extent indicated in the Opinion.

AWARD

Claim sustained in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 16th day of July, 1954.