

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Le Roy A. Rader, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of J. L. Eldridge, who is now, and for some years past has been, employed by The Pullman Company as a porter operating out of the Chicago Central District.

Because The Pullman Company did, under date of September 22, 1953, take disciplinary action against Porter Eldridge by giving him an actual suspension of five (5) days on charges unproved, which action was unjust, unreasonable and in abuse of the Company's discretion.

And further, because the charges were not proved beyond a reasonable doubt against this employe as is provided for in the rules of the Agreement between The Pullman Company and Porters, Attendants, Maids and Bus Boys in the service of The Pullman Company in the United States of America and Canada, represented by the Brotherhood of Sleeping Car Porters, revised, Effective January 1, 1953.

And further, for the record of Porter J. L. Eldridge to be cleared of the charges in this case, and for him to be reimbursed for the five (5) days' pay lost as a result of this unjust and unreasonable action.

OPINION OF BOARD: Claimant Eldridge, a porter in Carrier's Chicago Central District, was given a suspension of five days by reason of incidents occurring while he was on duty en route Duluth, Minnesota to Chicago, Illinois on car Vicker, No. 1808, Line 705, Soo Line Railway Train No. 18. He was assigned to guard car Oak Hills, Line 702, between the hours 2:00 A. M. and 6:00 A. M. and was instructed to call Porter Williams, Chicago Central District, at 6:00 A. M.

It is alleged Claimant failed to call the other porter at the time designated, engaged in loud talk and used profane language directed at the supervising conductor and questioned his authority. Claimant denies the allegations. However, he was disciplined as above stated after a hearing at which evidence was taken and Conductor Holmes gave very damaging testimony against Claimant substantiating the charges made. On behalf of Claimant it is contended that the charge was not proven beyond a reasonable doubt, citing Rule 49 of the current agreement.

A review of the evidence taken at the hearing leads to the conclusion that Claimant was given a fair hearing and that he was guilty of unbecoming con-

duct not in keeping with proper performance of his duties at the time in question. We consider the disciplinary action taken to have been mild and therefore are of the opinion that this claim should be denied. In Award 6924 we discussed the question of proof beyond a reasonable doubt in such cases in view of the provisions of Rule 49.

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 Employe 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

The Agreement was not violated.

AWARD

Claim denied in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 29th day of March, 1955.