

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

A. Langley Coffey, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD TRAINMEN

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Request that F. O. Marti, Dining Car Steward, Pennsylvania Railroad, be reinstated with his seniority unimpaired and paid for all time lost under Rule 7-B-1 of the Dining Car Stewards Agreement on account of being discharged without proper cause and being permitted to work approximately two months from the so-called date of occurrence.

OPINION OF BOARD: A Dining Car Steward who reports for duty in a disheveled condition with the odor of strong drink on his breath is obviously suffering a hangover from over-indulgence in intoxicants and is unfit to perform the service for which he stands.

There is ample proof of record to support the charge that claimant was in the condition as above when he reported for duty on December 8, 1953. Failure to immediately relieve him on his assignment has been weighed as a circumstance that goes to the probative force of other proof of record but detracts none from the obvious.

As a general proposition, the proven charge would not constitute grounds for dismissal and we would not hesitate to hold the measure of discipline in this case to be arbitrary and capricious, if it were not for claimant's totally unsatisfactory past service record which shows many warnings and reprimands for dereliction of duty, failure to report for train, and once before being in possession of a partially filled pint bottle of whiskey while on duty.

All else appearing in the record, including the fact that claimant was permitted to work approximately two months after December 8 addresses itself to the proposition of leniency which rests in the discretion of Carrier alone.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing thereon;

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

The Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November, 1956.