

**Award No. 8332**

**Docket No. MS-10104**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

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**PARTIES TO DISPUTE:**

**GREAT NORTHERN RAILWAY COMPANY**

**WILLIAM J. HUFFMAN**

**STATEMENT OF CLAIM:** Claim of the Great Northern Railway Company that its action in dismissing Waiter William J. Huffman from its service on February 20, 1957, for his discourtesies to certain revenue passengers, inattention to assigned duties as a waiter, and displaying an insolent and surly attitude in the presence of patrons in Ranch Car 1241, Train 31, January 16, 1957, is not in violation of any negotiated rule or agreement.

**OPINION OF BOARD:** This claim was referred to this Division by the Carrier.

The record shows that the individual named in the claim was, following investigation by Carrier, dismissed from service on February 20, 1957. Under date of March 11, 1957, Organization's General Chairman addressed a letter to Carrier's Assistant to the President-Personnel appealing the dismissal on the grounds that Mr. Huffman did not receive a full and impartial investigation as contemplated by Rule 21 of the current agreement governing dining car employees. Therefore, it was requested that Mr. Huffman be restored to service with seniority and vacation rights unbroken and paid for all time lost. The request was denied under date of March 22, 1957, and so far as can be determined from the record nothing further was heard from the Organization until it and Mr. Huffman were duly instructed to file their respective submissions with the Third Division in accordance with the requirements contained in the Board's Circular No. 1, issued October 10, 1934. The Organization replied as follows:

"In reply to your correspondence of December 3rd and subsequent letter of January 23rd, be advised that our Organization is not party to the dispute between Mr. Huffman and the Great Northern Railway and it is not our intention to file a brief."

The individual acting through attorney replied in part as follows:

"You are hereby advised that we do not intend to file any submission of this matter with your Board but intend to seek our legal redress in the Courts of the State of Minnesota. \* \* \*"

Upon setting the case for oral hearing Attorney for the individual informed the Third Division as follows:

"This will acknowledge receipt of your letter of February 18, 1958, regarding your proposed hearing, Docket No. MS-10104.

"If you will kindly refer to my letter of February 6, 1958, you will note that I advised you at that time that Mr. William Huffman and our office do not intend to file any submission of this matter to your National Railroad Adjustment Board.

"At the expense of repeating myself, I again wish to advise you that we do not intend to, and will not, be present at any proceedings before your Board at this time or at any other time, and that we intend to seek our redress in this matter before the courts in the State of Minnesota. I feel compelled, however, to straighten you and the Great Northern Railway Company out as to the exact nature of the relief that we are seeking, and that is, we are not asking the Great Northern Railway Company to re-employ Mr. William Huffman, but we are seeking damages for the unlawful discharge of William Huffman. If we were seeking the reinstatement of Mr. Huffman, along with the back pay that he has suffered, then we would process his case through your Board."

Based upon the facts and evidence submitted by the petitioner the claim should be sustained.

**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 Employee involved in this dispute are respectively carrier and employee 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, as set forth in the Opinion, the claim should be sustained.

#### AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon  
Executive Secretary

Dated at Chicago, Illinois, this 9th day of May, 1958.