

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Harold M. Weston, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS
THE PULLMAN COMPANY

STATEMENT OF CLAIM: The Statement of Claim as expressed by the Petitioner, the Brotherhood of Sleeping Car Porters, in its appeal to the Third Division reads as follows:

" . . . for and in behalf of R. J. Smith, 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 August 13, 1957, take disciplinary action against Porter Smith in a decision rendered by Superintendent L. L. Schwarz by giving him an actual suspension of one round trip, which is equivalent to five (5) days, which action was based upon charges which were not proved beyond a reasonable doubt as provided for under the rules of the Agreement between The Pullman Company and Porters, Maids, Attendants and Bus Boys employed by the Pullman Company in the United States of America and Canada, represented by the Brotherhood of Sleeping Car Porters.

"And further, for the record of Porter Smith to be cleared of the charge in this case, and for him to be reimbursed for any money lost as a result of this unjust action."

OPINION OF BOARD: Claimant, a Porter in Carrier's employ since 1929, was suspended on August 13, 1957, for one round trip, allegedly because of his refusal to obey a Pullman Conductor's instructions regarding the unloading of passengers.

While it is true that Rule 49 requires a greater degree of proof than is customarily necessary under collective bargaining agreements, there is sufficient credible and competent evidence in the record, viewed as a whole and making all due allowance for Claimant's testimony, to establish beyond a reasonable doubt that Claimant was guilty of the charges levelled against him.

The suspension does not appear to be unreasonable under the circumstances and we are satisfied that in processing the claim proper regard was had for the requirements of the applicable Agreement.

The Claim will accordingly be denied. See Awards 9494, 9493, 9175.

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 the Agreement was not violated.

AWARD

Claim denied.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 13th day of September 1961.