

Award No. 10259

Docket No. CL-12463

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Ben Harwood, Referee

PARTIES TO DISPUTE:

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

**THE NEW YORK CENTRAL RAILROAD, EASTERN DISTRICT
(except Boston and Albany Division)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-4875) that:

(1) That Carrier violated the current Clerks' Agreement when it arbitrarily discharged John F. O'Shea and Kenneth D. Hartz, who were employed as Ticket Clerk and Information Clerk, respectively, at Central Terminal Passenger Station, Buffalo, New York, without just cause.

(2) That Mr. O'Shea and Mr. Hartz shall be returned to service with seniority and all other rights unimpaired.

(3) That Mr. O'Shea and Mr. Hartz shall be reimbursed for all wage losses sustained on and after January 21, 1959 as a consequence of Carrier's actions.

OPINION OF BOARD. This is a discipline case in which the Claimants admitted to drinking beer while eating lunch on January 21, 1959, and for which they were charged, tried and dismissed from service.

Claimant Hartz is now deceased.

Based on the record in this case, the Board concludes that the discipline against Claimant O'Shea has served its purpose and that he should be restored to service with seniority and all other rights unimpaired, but that the claim should be denied in all other respects.

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;

That the Carrier and 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 claim should be sustained to the extent of restoring Claimant O'Shea to service with seniority and all other rights unimpaired, and denied in all other respects.

AWARD

Claim sustained to the extent indicated in Opinion and Findings and denied in all other respects.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of December 1961.