

Award No. 10697

Docket No. CL-12974

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Jerome A. Levinson, Referee

PARTIES TO DISPUTE:

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

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-5045) that:

(a) The Carrier violated the Rules Agreement, effective May 1, 1942, except as amended, particularly Rules 6-A-1 (a) and 6-C-1 (a) and (b), when it imposed discipline of dismissal from service upon Edward H. Earl, Janitor, Court Street Station, Cincinnati, Ohio, Buckeye Region.

(b) The discipline of suspension should be removed, and Mr. Earl should be returned to service with all rights unimpaired and be reimbursed for all monetary loss sustained, commencing November 2, 1959, and continuing until adjusted. (Docket 822)

OPINION OF BOARD: Claimant was employed by Carrier as a Janitor at Court Street Freight Station, Cincinnati, Ohio with tour of duty commencing at 8:00 P.M.; as such he acted as a watchman and in the course of his work he punched time clocks. On November 1, 1959, after drinking at a wedding in Kentucky and arriving home late, and after attempting unsuccessfully to reach the Freight Agent by telephone to report off, he reported for work admittedly late and in an unfit condition. Carrier dismissed him after trial, and adhered to the dismissal upon appeal.

Employees claimed that the discipline of dismissal was out of proportion to the gravity of the offense; and that Claimant did not receive a fair and impartial trial, reasonable advance notice thereof nor appropriate opportunity to be represented, all contrary to Rules 6-A-1 (a) and 6-C-1 of the Agreement between the parties.

In view of Claimant's 17-year record of service with Carrier, apparently without previous infraction noted in the record, the Board feels that the discipline of dismissal was unreasonable and excessive for the offense involved and that Claimant should be restored to service with all rights unimpaired but without monetary compensation. Accordingly, it is unnecessary to discuss other points raised by the parties.

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 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

That Claimant should be restored to service with all rights unimpaired but without monetary compensation.

AWARD

Claim disposed of in accordance with the Opinion and Findings.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 19th day of July 1962.