



Award No. 16703
Docket No. CL-17624

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Arthur W. Devine, Referee

PARTIES TO DISPUTE:

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

**THE CHESAPEAKE AND OHIO RAILWAY COMPANY
(Chesapeake District)**

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6420):

(a) That the Carrier violated the Rules of Clerks' General Agreement and Supplements thereto, when on Wednesday, Feb. 15, 1967, at approximately 4:00 P.M. it arbitrarily dismissed Grandon C. Salyers from service without a hearing and again on March 6, 1967, it issued letter to Grandon C. Salyers dismissing him from service as of March 6, 1967, charging him with being under the influence of intoxicants at quitting time 3:30 P.M., Wednesday, Feb. 15, 1967, and

(b) That Grandon C. Salyers be allowed eight hours pro rata rate \$22.18 per day on his Position of Store Helper C-156 for February 16, 1967 and each subsequent date until he is again returned to service with all rights and privileges restored and B. of I. removed from his service record.

OPINION OF BOARD: Following an investigation conducted on February 27, 1967, Claimant herein was notified on March 6, 1967, that he was dismissed from Carrier's service for being under the influence of intoxicants at about 3:30 P.M., February 15, 1967, at Raceland Store, Raceland, Ky.

The Petitioner has raised procedural issues concerning the attendance of witnesses at the investigation that was conducted on February 27, 1967; however, after a careful analysis of the complete record in this particular case, the Board is convinced that none of Claimant's substantive procedural rights under the Agreement were violated.

As to the merits of the case, there was substantial evidence adduced at the investigation in support of the charge against the Claimant, but, in our opinion, based on the entire record, permanent dismissal from service was excessive discipline. We will, therefore, award that Claimant be restored to the service with seniority and other rights unimpaired, but without pay for time lost while out of service.

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 the discipline imposed was excessive.

AWARD

Claim sustained to the extent indicated in the Opinion and Findings.

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

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of October 1968.