

Award No. 18618
Docket No. CL-18911

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert A. Franden, Referee

PARTIES TO DISPUTE:

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

PENN CENTRAL TRANSPORTATION COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6812) that:

1. Carrier acted in an arbitrary and capricious manner in suspending Messrs. Paul Crutcher and Thomas Hamilton from Carrier service on or about February 26, 1969.
2. Carrier shall be required to compensate Claimants Crutcher and Hamilton for all time held from service until the suspension ended.
3. The service records of Messrs. Crutcher and Hamilton shall be cleared of all reference to the charge and suspension.

OPINION OF BOARD: This is a discipline case. Claimants were suspended for a Rule G violation. A hearing was held and the transcript of that hearing is part of the record. It is the position of the Claimants that the evidence submitted was totally insufficient to sustain the charges.

We are mindful of the long line of cases decided by this Board wherein we held that we will not disturb the actions of the Carrier in disciplining its employees where there was sufficient evidence to support its actions. In the present case, however, we are unable to say there was substantial evidence submitted to prove the charge. This is not a question of whether the employees were intoxicated as that was never alleged. The judgment of witnesses as to that question would be competent and material. Here we are concerned with what the substance was which the Claimants were drinking. There is nothing in evidence to substantiate the charge that it was beer. However well founded the assumptions of the Carrier officers may have been, they cannot be regarded as competent evidence sufficient to substantiate the charge.

Accordingly we will sustain the claim.

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 Agreement was violated.

AWARD

Claim sustained.

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

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June 1971.