

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 22557
Docket Number CL-22619

Paul c. Carter, Referee

PARTIES TO DISPUTE: (Brotherhood of Railway, Airline and
(Steamship Clerks, Freight Handlers,
(Express and Station Employees
(
(Southern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood
(668615) that:

1. The Carrier acted in an arbitrary and capricious manner and in violation of the current schedule agreement when it discharged Mr. T. J. Ball.

2. The Carrier shall now be required to reinstate Mr. Ball to his former position with all seniority and other rights unimpaired and pay Mr. Hall for all time lost by him beginning May 17, 1977, and continuing until Mr. Hall is returned to service.

OPINION OF BOARD: Claimant had been in the service of the Carrier as a dining car waiter for about one year. On April 20, 1977, he was notified to attend an investigation, or hearing, on April 26, 1977. The letter of charge read in part:

"You will be charged with violation of Section 1, Article 5 G of Manual of Instructions and Procedures, Dining and Tavern Car Section, in that you were allegedly under the influence of an intoxicant while serving as waiter at approximately 9:00 P.M., Sunday, April 17, 1977, on Dekalb County School Patrol Special Train, from Washington to Atlanta."

Section 1, Article 5 G, as referred to in the letter of charge reads:

"SECTION I - GENERAL

5. conduct

G . The use of narcotics or intoxicants at any time while on duty is detrimental to good service, and employees

"consuming either of these **items** while on duty or reporting for duty under the influence of either, will be dismissed.

- (1) The transportation or possession of intoxicating beverages while on duty or while upon Company property is prohibited. Employees guilty of the infraction of this rule **may** anticipate discipline."

The investigation was held as scheduled. Claimant was present at the investigation, and represented by two officers of the Organization. A copy of the transcript of the investigation has been **made** a part of the record.

On May 17, 1977, claimant was notified of his **dismissal** from the services of the Carrier.

The Board has carefully **reviewed the** entire record, including the transcript of the investigation. We find that none of claimant's substantive procedural rights was violated in the investigation or in the appeal of the case on **the** property.

There was substantial evidence presented in the investigation, including the statement of the **claimant**, to support the charge against claimant. There is no proper basis for this Board to interfere with the discipline imposed.

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 **Employes** involved in this dispute are respectively Carrier and **Employes** 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 Number **22557**
Docket **Number** CL-22619

Page **3**

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Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third **Division**

ATTEST: *A. W. Pauls*
Executive Secretary

Dated at Chicago, Illinois, this 16th day of **October 1979.**