

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD TRAINMEN

BALTIMORE AND OHIO RAILROAD COMPANY

STATEMENT OF CLAIM: "Claim for reinstatement and pay for time lost and record cleared of all charges against Mr. W. H. Creger, Dining Car Steward dismissed on the charge of having indulged in intoxicants on arrival at Chicago, Illinois, on Train No. 9, Monday morning, August 15th, 1938."

EMPLOYEES' STATEMENT OF FACTS: "Mr. Creger received a message on Train No. 16 at Martinsburg, W. Va., on August 19th, 1938, that he was being relieved from duty and to report to the Manager of Dining Car and Commissary Department at Baltimore on August 23rd for investigation in connection with charge of having indulged in intoxicants at Chicago, Ill., on August 15th, 1938, after arrival of Train No. 9."

POSITION OF EMPLOYEES: "The Committee contends that Mr. Creger was off duty when it was alleged he was under the influence of alcohol, and no one said anything to him about these charges until he received a message at Martinsburg, W. Va., on August 19th, that he was being relieved of duty and to report to the Manager of the Dining Car Department August 23rd for investigation, charged with having indulged in intoxicants on arrival at Chicago, Illinois, on Train No. 9, August 15th, 1938.

"Had Mr. Creger known when he arrived at the Coach Yard, Chicago, Ill., on the morning of the 15th that he was being charged with having indulged in intoxicants he would have presented himself to a doctor or anyone whom the official may have chosen to examine him as to his condition this date. As Mr. Creger was not given this consideration, Committee feels that Mr. Creger is innocent of the charge against him, as the statements made below by the men and his crew who were with him on this date indicate:

"Statement of Pullman Car Conductor, Mr. R. W. Carter who was in charge of the Pullman Cars on Train No. 9 on the morning of August 15, 1938, into Chicago, Ill., and had been in conversation with Mr. Creger several times between Gary, Indiana, and 63rd Street, Chicago, and did not notice nor smell any intoxicants about Mr. Creger and would take oath to this.

"Statement of Dining Car Steward Mr. D. T. Rush. Mr. Rush stated that he visited Mr. Creger in the dining car this morning shortly after Mr. Creger returned from the Commissary and had a short talk with him and did not notice nor smell any intoxicants about him.

"Statement of Mr. J. D. Kelsey, Clerk in Commissary, Chicago, Ill. Mr. Kelsey stated that Mr. Creger passed him when he was taking his requisition for supplies and that he remarked he smelled like he had had a drink, 'inasmuch as I was busy putting up orders, I didn't have any conversation

There is in existence an agreement between the parties bearing effective date of December 16, 1938.

OPINION OF BOARD: The evidence of record discloses no grounds for disturbing the action of the Carrier.

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 Employee involved in this dispute are respectively Carrier and Employee 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 evidence of record discloses no grounds for disturbing the action of the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 21st day of November, 1939.