

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

I. L. Sharfman, Referee

PARTIES TO DISPUTE:

THE BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: "For and in behalf of C. C. Reed, who is now employed as an attendant operating out of the Chicago District Commissary, because the Pullman Company did, under date of April 7, 1939, discipline Attendant Reed by assessing his service record with an actual suspension of seven (7) days on alleged charges which are unproved. And further, because Attendant Reed did not have a fair and impartial hearing, and the disciplinary action taken against him was unjust and unreasonable; and further, for the record of Attendant Reed to be cleared of these alleged charges, and that he be paid for the seven (7) days actual suspension that he served as a result of said alleged charges."

EMPLOYES' STATEMENT OF FACTS: "Your petitioner, the Brotherhood of Sleeping Car Porters, respectfully submits that it is the duly designated and authorized representative of all porters, attendants and maids in the service of the Pullman Company under provisions of the Railway Labor Act.

"Your petitioner further sets forth that in such capacity, it is duly authorized to represent C. C. Reed who is now and for several years past has been employed by the Pullman Company as an attendant operating out of the Chicago District Commissary.

"Your petitioner further sets forth that on or about the twenty-first of October, 1938, Attendant Reed was called into the office of District Commissary S. E. Mitchell on an alleged complaint that he had served an orange juice that had not been properly strained, and that he had failed to comply with instructions in regard to issuing check, etc.

"Your petitioner further represents that under date of March 20, 1939, a letter was addressed to C. C. Reed formally charging him with serving an orange juice not properly strained and failure to comply with instructions in the matter of issuing check and receipt for same.

"Your petitioner further represents that Attendant Reed addressed a statement under date of October 21, 1938 answering the charge as contained in the above mentioned letter.

"Your petitioner further states that a hearing was held on this alleged charge on March 28, 1939 after which hearing Attendant Reed was disciplined by actual suspension from the service for seven days in a decision given by District Commissary S. E. Mitchell under date of April 7, 1939.

"All of this proves four violations by Reed of the instructions contained in Circular No. 14, dated May 18th, 1938, which as previously stated, Attendant Reed acknowledged as having carefully read and thoroughly understood:

- 1) Reed failed to write the order for orange juice on the Beverage Check proper at the time the service was requested;
- 2) The order for orange juice, when served by Reed, was not accompanied by a check, properly filled out, extended, and punched, and placed before the guest, face down;
- 3) Beverage Check could not have been properly punched, both portions at once; and
- 4) The stub, or Guest Receipt portion of the check was not detached in the presence of the passenger served the orange juice.

As will be noted from the minutes of the district hearing, Attendant Reed made no satisfactory explanation of his manipulation of Beverage Check No. Y-311382. In fact, his representative at the hearing refused to let him answer questions designed to arrive at some understanding, and possible explanation, of what Reed had done in connection with the several orders reported on both portions of this check.

"Manipulation of Beverage Checks is serious. This company pays state sales taxes, where imposed, on its sales of malt, vinous, and spirituous beverages, and on cigarettes, and cigars, on the basis of the information reported by attendants on the Beverage Checks. It is for tax purposes that a record is made on each Beverage Check, of the state in which each sale is made (see Exhibit D). These records are open to inspection by state tax commissions at any time. Records of sales on Beverage Checks must conform with actual sales in order that this Company's sales tax accounts may be properly kept, and sales taxes properly paid. Should this Company, on the basis of incorrect information furnished on Beverage Checks, inaccurately report its tax obligations, it is subject to penalty. Manipulation of Beverage Checks cannot be tolerated.

"There can be no question that Reed introduced contraband oranges on car FEDERAL VIEW on the trip of September 25th-27th, 1938. Beverage check No. Y-311382, by itself, proves manipulation. The minutes of the local hearing show he failed to make any adequate explanation of this manipulation. The fact that a passenger service inspector exposed Reed's derelictions has no bearing on this case. The question of who led to the discovery that Reed had manipulated a check, and introduced contraband, is entirely extraneous. The public interest, the employes' interest, the Company's interest, render scrupulous honesty of Pullman employes indispensable. Where there are derelictions of duty; where the public's, the Pullman Company's, and the employes' interest is denied; and where dishonesty is employed to further the selfish, temporary gains of one employe, discipline is imperative. This inspector form of supervision is not unusual. The Government has its 'G' men. The Post Office Department has its postal inspectors. If an attendant, or porter, is found to be doing his work satisfactorily, that fact as reported by the inspector is entered on his record. On the basis of the evidence herein presented, Reed's suspension of seven days was entirely justified. His claim should be denied.

"The National Railroad Adjustment Board, in its Awards, has repeatedly held that it will not interfere in the application of discipline where there has been no abuse of discretion. There has been no abuse of discretion in the instant case." (Exhibits not included.)

OPINION OF BOARD: The record discloses no violation of the requirements of the Agreement bearing upon discipline. The employe was not disciplined without a hearing, and he was notified in writing of the time and

place of the hearing and of the specific charges preferred against him. At the hearing both the employe and his representative were given ample opportunity to present any facts or arguments pertinent to the charges. There are no rules specifying the types of evidence that must be submitted at the hearing, and the evidence adduced by the carrier under the circumstances of this case was not such as to detract from the fairness or impartiality of the hearing.

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 employe involved in this dispute are respectively carrier and employe 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

The facts of record disclose no adequate grounds for disturbing the disciplinary action of the Management.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 2nd day of May, 1940.