

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 J. Guynes, who is now employed by the Pullman Company as a porter out of the Chicago Eastern District because the Pullman Company did take disciplinary action against Porter Guynes by assessing the service record of Porter Guynes with a 'reprimand' on alleged charges of unsatisfactory performance of duties on trip leaving Chicago, March 8, 1939, which charges are unproved; and further, because Porter Guynes 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 Porter Guynes to be cleared of these alleged charges."

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

"Your petitioner further sets forth that in such capacity, it is duly authorized to represent J. Guynes who is now and for the past several years has been employed by the Pullman Company as a porter operating out of the Chicago Eastern District.

"Your petitioner further represents that under date of April 15, 1939, Porter Guynes was charged with several derelictions of duty in connection with the trip of March 8-9, 1939, which derelictions Porter Guynes denied.

"Your petitioner further sets forth that hearing on the above mentioned charge was held before Superintendent Ruddy on April 19, 1939 after which Porter Guynes, under date of April 28, 1939 was disciplined by having his record assessed with a 'reprimand.'

"Your petitioner further represents that appeal from the decision of Superintendent Ruddy was made through the proper channels up to and including the Assistant to the Vice President, Mr. B. H. Vroman, the last officer designated by the Management to handle matters of this sort; and that under date of June 16, 1939, Assistant to the Vice President, B. H. Vroman, sustained the decision of Superintendent Ruddy in this matter.

"Your petitioner further represents that under date of July 15, 1939, notice was filed with your honorable Board of the intention of the petitioner to file an ex parte submission for and in behalf of Porter J. Guynes in this case, and that on the same day and date copy of notice was served on Mr. B. H. Vroman, Assistant to the Vice President of the Pullman Company."

'Mr. Webster: Sometimes in the rush of business some small detail may be overlooked, is that right?

'Mr. Guynes: Yes.

'Mr. Webster: In other words, you might say you are not 100%

'Mr. Guynes: Yes.'

"It is evident that on the trip of March 8th-9th, 1939, Guynes became careless and forgetful. Discipline was considered necessary to get him to overcome this carelessness and forgetfulness. The facts as set forth herein clearly justify the reprimand assessed against Guynes' record. This Board has repeatedly held that it should not disturb the action of Management in discipline cases, unless the evidence clearly indicates that the Management has acted arbitrarily, without sufficient evidence or just cause, or in bad faith. No abuse of discretion on the part of Management exists in the instant case. The claim should be denied." (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.