

Award No. 1587

Docket No. PM-1510

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Lloyd K. Garrison, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: "... for and in behalf of J. Kidd, who is now and for some fifteen years past has been employed by The Pullman Company as a porter operating out of the district of Minneapolis, Minnesota. Because The Pullman Company did, under date of September 6, 1940, discharge porter Kidd from the service in said district, later returning him to the service in the Minneapolis, Minnesota District and penalizing him with an actual suspension of thirty days, which action was arbitrary, unjust, unreasonable, in abuse of the Company's discretion and based upon charges unproved. And further for the record of porter Kidd to be cleared of these charges and for porter Kidd to be paid for the thirty days actual suspension given him on account of said action taken against him as above stated."

OPINION OF BOARD: In view of the claimant's own admission of discourtesy to the stewardess, and in view of several prior instances of discourtesy and other deficiencies in the claimant's record, we do not think that the carrier exceeded the legitimate bounds of its discretion in deciding that some discipline should be meted out. The discipline finally imposed was a thirty-day suspension. The question before the Board is not what it would have done if the responsibility of imposing discipline had been placed upon it. The responsibility is that of the carrier, and the Board has no authority to interfere with its exercise unless the action taken was so clearly arbitrary as to be beyond the implied powers of management. There was no evidence of malice or bad faith in this case and no denial of a fair hearing. There was evidence on the basis of which the imposition of some form of discipline might not unreasonably have been imposed. Upon a careful review of the whole record, we do not feel that this Board would be warranted in holding that the discipline which was finally imposed was so excessive as to exceed the discretion necessarily conferred upon management.

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

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That the evidence is not sufficient to warrant setting aside or modifying the carrier's action.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois this 13th day of November, 1941.