

Award No. 2646

Docket No. PM-2485

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Curtis G. Shake, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of Charles Wilburn who was formerly employed by The Pullman Company as a porter operating out of the Chicago Southern District of Chicago, Illinois. Because The Pullman Company did, under date of March 25, 1943, discharge Mr. Wilburn from his position as a porter in the Chicago Southern District on charges unproved; which discharge was unjust, unreasonable and in abuse of the company's discretion. And further, for Mr. Wilburn to be reinstated to his former position as a porter in the Chicago Southern District of The Pullman Company and for him to be reimbursed for all time lost as a result of this unreasonable and unjust action.

OPINION OF BOARD: On March 6, 1942, the carrier's executive vice-president issued Circular No. 42-5, directed to the members of all Pullman crews, calling their attention to the fact that the unauthorized possession of property of the United States Government is a serious offense and forbidding such employes from accepting any gifts of such property from military personnel in troop movements. Subsequently, a billfold containing \$65.00, belonging to a soldier on a troop train, disappeared on a car of which the claimant was the porter in charge. During the unsuccessful search for said billfold the claimant's effects were examined. A package of army medical supplies, valued at approximately \$2.00, was found in the claimant's suitcase. A quantity of butter obtained from the Government commissary car, estimated by several witnesses to weigh four pounds but declared by the claimant to consist of only two sticks, was discovered in a water bucket kept in the equipment locker at the women's end of the claimant's car. In the smoker, under the seat which served as the porter's berth, were two 10-pound slabs of Government issue bacon.

The claimant was charged with the violation of the instructions contained in Circular No. 42-5, given a hearing, found guilty, and discharged. At the hearing the claimant admitted that he had actual knowledge of the provisions of Circular 42-5; that the medical supplies and butter were in his possession; and that he had accepted these as gifts from members of the armed forces while engaged in the course of his employment. He disclaimed any knowledge of the bacon or of the soldier's billfold.

We are asked to say that the claimant's discharge was an abuse of discretion. This we cannot do. The instructions contained in Circular No. 42-5 were not unreasonable or oppressive. Strict compliance therewith was as much for the benefit of the employes as for that of the carrier, since failure so to do might result in the federal prosecution of the individuals, as well as in

embarrassment to the company. The responsibilities of a porter require that one holding that position be a person of undoubted integrity. The claimant was admittedly guilty of an offense that branded him as untrustworthy. The comparatively small value of the articles involved is not a mitigating circumstance.

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 employees involved in this dispute are respectively carrier and employees 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 no abuse of discretion is established.

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 August, 1944.