

Award No. 3137

Docket No. PM-3182

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Luther W. Youngdahl, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * * * for and in behalf of J. Elston who is now and for a member of years past has been employed by The Pullman Company as a Bus Boy operating out of the Chicago District Commissary. Because The Pullman Company did, under date of March 21, 1945, take disciplinary action against J. Elston by giving him an actual suspension of 15 days on charges unproved; which action was unjust, unreasonable and in abuse of the Company's discretion.

And further, for the record of J. Elston to be cleared of the charges made against him in this case and for him to be reimbursed for the fifteen (15) days pay lost as a result of this unjust and unreasonable action.

OPINION OF BOARD: We believe the record sustains the discipline of fifteen (15) days suspension in this case. Bus Boy Elston was disciplined because of insubordination to Commissary Checker Hullinger. Carrier contends that when Elston attempted to have his time book signed before arrival at the 63rd Street Station, Hullinger told him it was contrary to instructions he had received from his superiors. Thereupon Elston became abusive to Hullinger, and got off the train at the 63rd Street Station contrary to orders.

The position of Carrier is corroborated by Bus Boy Bates who stated that he observed Elston changing his clothes before the arrival of the train at the 63rd Street Station, and heard the Checker give him instructions not to change since Elston would not be off duty until he got into the station at La Salle Street. Bates stated unequivocally that Elston got off the train at the 63rd Street Station. If the story of Bates is true, then Elston was clearly guilty of insubordination. No reason appears why Bates, a co-worker of Elston, should misstate the facts.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of the Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 1st day of March, 1946.