

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYES

SEABOARD AIR LINE RAILWAY

STATEMENT OF CLAIM: Claim of the Joint Council Dining Car Employees, Local 495, on the property of the Seaboard Air Line Railway Company, for and in behalf of Mr. R. W. Wiggins, who was unjustly dismissed from his position as Coach Attendant in the Dining Car Department of the Carrier, in violation of the current Agreement and in abuse of the Carrier's discretion, to be returned to service without prejudice.

OPINION OF BOARD: Chair Car Attendant R. W. Wiggins was dismissed from service for failure to carry out instructions and to keep his car cleaned. The Organization contends that the dismissal was unjust, a violation of the current Agreement and an abuse of the Carrier's managerial discretion.

A review of the evidence reveals that Wiggins was working on the Carrier's crack streamliner, the Silver Meteor, running between Miami, Florida, and New York City. On June 13, 1945, Carrier's Passenger Traffic Manager and the Passenger Service Agent made an inspection of Wiggins's car and found the men's room in a filthy condition. They also state the women's room and the coach vestibules were in an unkempt condition. Wiggins was sitting in an adjoining coach at the time of the inspection instead of attending to his duties. There is evidence in the record that Carrier's Supervisor of Service had repeatedly talked with Wiggins in an effort to get him to perform his duties in a proper manner. There is evidence by the Train Conductor and others of complaints by passengers of surliness and inefficiency on the part of Wiggins.

The Organization presents evidence tending to dispute that produced by the Carrier. We think it sufficient to raise a conflict of evidence. The evidence of the Carrier, if believed, is amply sufficient to sustain the charge. We have said many times that it is not the function of this Board to weigh conflicting evidence in a discipline case and if the evidence is such that, if believed, it will support the findings of the carrier, the judgment of the carrier will not be disturbed. Award 3149, 3187, and 3185.

The duty rests upon management to provide their patrons with courteous and efficient service. When the record shows, as here, an inability or willful neglect to perform the duties of a position over a considerable period of time, the Carrier, if it recognizes its obligations to the public, is required, in the exercise of its managerial prerogative, to take whatever action is necessary to correct the situation. The Carrier in the present instance did not act in an arbitrary manner or abuse its managerial discretion in dismissing Wiggins from the service.

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 the evidence is sufficient to sustain the discipline imposed.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, the 10th day of July, 1946.