

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

James M. Douglas, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

**CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: * * * for and in behalf of Joseph Barnett, who was formerly employed by the Chicago, Milwaukee, St. Paul & Pacific Railroad Company as a porter operating out of the District of Chicago, Illinois.

Because the Chicago, Milwaukee, St. Paul & Pacific Railroad Company did under date of March 19, 1947, discharge Mr. Barnett from his position as a porter on charges unproved, which action was unjust, unreasonable, arbitrary, and in abuse of the Company's discretion.

And further, for Mr. Joseph Barnett to be returned to his former position as a porter for the Chicago, Milwaukee, St. Paul & Pacific Railroad Company with seniority rights unimpaired, and to be reimbursed with pay for all time lost as a result of this unjust and unreasonable action.

OPINION OF BOARD: Claimant, a sleeping car porter, asserts his discharge by Carrier was unjust and arbitrary.

Claimant was enroute Tacoma to Chicago and was removed from the train at Minneapolis by a company officer because of intoxication. He was taken to the Minneapolis city jail by city police officers. He was found guilty of being drunk upon trial in the Municipal Court. Claimant denied his guilt in the Municipal Court and denies it here.

However, the evidence of the Passenger Conductor who first found claimant drunk on the train and of Company Officer who boarded the train before it reached the train shed and likewise found Claimant drunk on the train is sufficient to sustain the charge, and to warrant Carrier's action. Accordingly, Carrier's action is not unjust or arbitrary or in abuse of its right to enforce discipline.

Claimant had a fair hearing which was held in accordance with the Rules, so his claim must be denied.

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 Employee involved in this dispute are respectively carrier and employee 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 Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 25th day of March, 1948.