

Award No. 4269

Docket No. PC-4238

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Curtis G. Shake, Referee

**PARTIES TO DISPUTE:**

**ORDER OF RAILWAY CONDUCTORS, PULLMAN SYSTEM**

**THE PULLMAN COMPANY**

**STATEMENT OF CLAIM:** The Order of Railway Conductors, Pullman System, claims for and in behalf of Conductor G. H. Ragland, Pennsylvania Terminal District, that:

1. Under date of November 29, 1947, The Pullman Company did discharge Conductor Ragland from the service on charges unproved, and further that in discharging Conductor Ragland The Pullman Company acted unjustly and in abuse of its discretion and in violation of Rule 49 of the Agreement between The Pullman Company and its Conductors, and
2. We now ask that G. H. Ragland be restored to his former position as conductor in the Pennsylvania Terminal District, with all rights unimpaired and that he shall be paid for all time lost as a conductor by reason of said discharge.

**OPINION OF BOARD:** The Claimant was employed by the Carrier as a Pullman conductor on January 29, 1945. He was suspended for thirty days for having reported for duty under the influence of an intoxicant on June 18, 1946. On November 29, 1947 Claimant was dismissed from service for being under the influence of intoxicants while on duty on August 24, 1947. Following his dismissal the Claimant demanded a hearing, which was accorded him on December 22, 1947. Thereafter, on January 5, 1948, Carrier's District Superintendent confirmed the order of dismissal and his action was ratified by the Assistant Vice President on March 1, 1948.

It is contended here that the Carrier acted unjustly and abused its discretion and that the charge against the Claimant was not proved.

There are many conflicts in the evidence and much of it was favorable to the Claimant, but we have repeatedly pointed out that this Board does not undertake to reconcile such conflicts or weigh the proof. Our sole responsibility in that regard is to ascertain whether there was anything prejudicial to the Claimant's right to a fair hearing and to determine whether the Carrier's action is supported by competent evidence of probative value.

Bearing in mind the functions of this Board it will suffice to call attention to two items of evidence. A passenger who had some difficulty over his ticket stated: "I found him (the Claimant) in the next car, which I believe was the buffet car, 'cozily' seated in the drawing room enjoying scotch and soda with the occupants of this room."

The bus boy on one of the cars under the Claimant's care made the following statement: "Sometime after the transportation was lifted by my conductor (the Claimant), I recall him sitting at the same table with this man and lady. After he was seated there, this gentleman ordered two Scotch and Sodas and one Bourbon. This was the only party seated at this table that is, the man, the lady and the conductor. I served this order and also I believe about two more to the same table where the man, the lady and the conductor were seated. \* \* \* I did not see my conductor drink any of the order which was served \* \* \* (but) it is evident that the Bourbon was consumed by my conductor."

There was other evidence to the effect that the Claimant's conduct was typical of a person to some degree under the influence of intoxicating liquor.

While the proof might be said to fall somewhat short of establishing the untouching of the Claimant beyond a reasonable doubt, according to the standards applicable to a criminal prosecution, we think it was sufficient to support the Carrier's action. The Carrier is entitled to insist that its representatives conduct themselves so as to be above reasonably grounded suspicion of indulging in the use of intoxicating liquor while on duty.

**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 record does not establish that the Carrier acted unfairly or abused its discretion.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: A. I. Tummon  
Acting Secretary

Dated at Chicago, Illinois, this 17th day of January, 1949.