

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Charles S. Connell, Referee

PARTIES TO DISPUTE:

UNITED TRANSPORT SERVICE EMPLOYES
THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: This claim is filed under Rule 6 a-3(a) of an agreement signed October 29, 1943, supplemental to an agreement between the Pennsylvania Railroad Company and Station Porters (Red Caps) represented by this Organization effective June 1, 1940, in behalf of the following Claimants:

A. E. Jackson
T. W. Monger
C. L. Alexis
J. A. Jones

M. Newton
F. A. McPheeters
S. D. Dallas
E. M. Joseph
T. W. Payne

A. B. Marecheau
F. A. Lankford
R. H. Richardson
J. J. McCoy

Claim is for violation of the above named rule in behalf of the above named employees in that the Pennsylvania Railroad Company did:

1. Fail to apprise these employees of the exact charge for which they were to be tried as specified by the agreement;
2. Fail to provide a fair and impartial hearing as required by the agreement;
3. Abuse its discretionary powers;
4. Assess discipline for an alleged violation of Carrier's regulations and policy and for a performance rightfully one of contract for which no contract has been executed;
5. Violate Rule 6 a-3(a) of said agreement in that hearing was denied by station master, T. J. Hawks, when request for same was made.

Inasmuch as the aforementioned employees of the Pennsylvania Railroad have been subjected to a loss in earnings growing out of their improper suspension from work, the Union asks that these men be fully compensated for time lost and that their record be cleared of all the charges.

OPINION OF BOARD: The facts and contentions of the parties are fully set forth in their respective submissions, and are not in dispute. The claimants are all Station Porters (Red Caps) employed by the Carrier at Pennsylvania Station, New York City. On reporting for duty, claimants were issued a series of tags or checks for which they were charged, and at the close of their tour of duty, they were required to remit 15 cents for each tag used and turn in any unused tags. A daily record of the number of tags issued and remittances made is kept by the Carrier. Based on this record, the Carrier charged the

claimants with unsatisfactory service and their immediate superior conferred with each claimant, and requested further effort on their behalf. Since the records did not show improvement, the Carrier charged each claimant with unsatisfactory service, and notified each to attend a separate trial in connection therewith. Each claimant was properly notified, and at the trial was represented if he so desired, was allowed to testify and present witness, and to cross examine. Subsequent to the trial each claimant was adjudged guilty of the charge and suspended for 10 days.

This is a discipline case. The charge of the Employes that the claimants were not accorded a fair trial, or that the accusation by the Carrier was not definite, is not justified. It is our opinion that the applicable provisions of the Agreement between the parties pertaining to discipline matters have been fully complied with in the handling of the claimants.

It is the well settled rule of this Board that it will not substitute its judgment for that of the Carrier in assessing discipline unless the Carrier has done so capriciously or arbitrarily. The discipline assessed in this case was not harsh and we can not say the Carrier was capricious or arbitrary and, accordingly, the 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 Employes involved in this dispute are respectively carrier and employes 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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 21st day of December, 1949.