

Award No. 4807

Docket No. DC-4624

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Curtis G. Shake, Referee

PARTIES TO DISPUTE:

DINING CAR AND RAILROAD FOOD WORKERS UNION

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim for and in behalf of L. M. Brewster, that he be returned to his former position with all seniority rights restored and paid for all time loss from June 26, 1947, as a result of being dismissed from service without just cause.

OPINION OF BOARD: There was a controversy between the Claimant, a dining car waiter, and his Steward concerning the performance of the former's duties. In view of what immediately followed it will not be necessary to review the nature or cause of this trouble.

A Supervisor of Service was on the train and on duty. He was called to the dining car and undertook to discuss the cause of the trouble with the Claimant who refused to talk. The Claimant was then ordered by the Supervisor to leave the car but he refused to do so. The Train Conductor was then called and he likewise ordered the Claimant to leave the car, which he again refused to do. The Claimant persisted in remaining on the car until a police officer boarded the train at the next stop for the purpose of removing him.

Regardless of the cause of the trouble between the Steward and the Claimant, the latter's stubborn refusal to obey the orders of the Supervisor of Service, and especially those of the Train Conductor, constituted a clear case of insubordination of the most serious character. Train conductors have a definite public as well as a contractual responsibility for maintaining good order on passenger trains and this fact is well known to all subordinate employees. There could be no justifiable excuse for the defiant refusal of the Claimant to leave the dining car when commanded so to do by the Conductor.

After having been accorded a full and fair hearing the Claimant was dismissed from service. We do not regard this penalty as excessive in view of the serious character of the offense as stated herein and the Claimant's admission that this was the second occasion for him to be ordered to leave a dining car. Awards Nos. 2498 and 3342.

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 there was no violation of the current Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 29th day of March, 1950.