

Award No. 5403
Docket No. CL-5465

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Jay S. Parker—Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

The estate of Effie J. Harmon, Station Cleaner, Broad Street Suburban Station, Philadelphia, Pennsylvania, be compensated for all monetary loss sustained dating from April 27, 1948, to December 16, 1948, the date of her death. (Docket E-632.)

OPINION OF BOARD: This claim is based on the same facts as those involved in Award No. 5401, this day adopted, the only material difference being in the names of the respective employees. What is held in that Award is supported by the same evidence and with one exception to be presently mentioned is equally controlling here. For that reason it would add nothing to the body of our reports and be of no benefit to the parties to burden our records with an extended Opinion in this case. Therefore, based on what is said and held in Award No. 5401, we hold the record here reveals a situation warranting the Carrier in assessing discipline against the claimant, Effie J. Harmon, but that the discipline imposed should have been suspension instead of complete dismissal from the Carrier's service and that by reason thereof claimant, had she lived, would have been entitled to restoration to the Carrier's service with seniority right unimpaired within ten days from the date of the adoption of this Award without retroactive pay. It is conceded claimant is now deceased and therefore cannot be restored to service. For that reason and to avoid a useless gesture the Award will contain no order of that nature.

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 under the facts and circumstances set forth in the Opinion suspension, not full and complete dismissal from service, was the proper disciplinary penalty.

AWARD

Claim as to retroactive reparation denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 26th day of July, 1951.