

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Adolph E. Wenke, Referee

PARTIES TO DISPUTE:

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

RAILWAY EXPRESS AGENCY, INC.

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

(a) The agreement governing hours of service and working conditions between Railway Express Agency, Inc., and the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees was violated at the Boston, Mass., terminal in the treatment accorded Vincent E. Powers in dismissing him from service March 26, 1951 as the result of an alleged investigation conducted March 21, 1951; and

(b) He shall now be returned to service with seniority unimpaired and compensated for salary loss.

OPINION OF BOARD: This is a disciplinary proceeding involving messenger Vincent E. Powers who, after investigation, was discharged.

By letter dated March 19, 1951 Powers was charged with "violation of Rule 831 of General Rules and Instructions, said violation concerning your being under the influence of intoxicating liquor in the dormitory of the Boston Terminal Company, South Station, Boston, Mass., on March 13, 1951; also failing to advise your Superintendent of your arrest at Boston, Mass., August 12, 1949."

Rule 831 of General Rules and Instructions, so far as here material, provides "* * * excessive use of intoxicating liquor or disreputable conduct while off duty will be sufficient cause for investigation and dismissal. Any employe arrested for any cause is required to immediately advise his Agent or Superintendent."

The Brotherhood contends the charges are not sufficiently specific. With this we cannot agree. The charges, as made, definitely informed Powers as to what conduct of his, while off duty, the Agency considered was in violation of Rule 831 and we are of the opinion that if the charges made are true, that they were in violation thereof.

As to the first of said charges the evidence, including that of powers himself, establishes the charge that on March 13, 1951, he was under the influence of intoxicating liquor and caused a disturbance in the dormitory of the Boston Terminal Company.

As to the part of the charge the evidence shows Powers had been arrested in Boston on 8/11/49 on the charge of drunkenness and released on 8/12/49 and failed to advise his Superintendent thereof. We find this sufficiently establishes the second part of the charge.

We find Powers had a fair and impartial investigation of his conduct within the meaning and contemplation of Rule 29 of the parties' agreement and that, in view of his record, we cannot say that the Agency was unreasonable or arbitrary in discharging him from the service.

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 Express Agency did not violate the agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Acting Secretary

Dated at Chicago, Illinois this 4th day of April, 1952.