

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Carroll R. Daugherty, Referee

PARTIES TO DISPUTE:

ORDER OF RAILWAY CONDUCTORS, PULLMAN SYSTEM

THE PULLMAN COMPANY

STATEMENT OF CLAIM: Claim of the Order of Railway Conductors, Pullman System, for and in behalf of Conductor L. A. Hall, Pennsylvania Terminal District, that:

1. Under date of May 4, 1951, The Pullman Company dismissed Conductor Hall from the services of the Company, unjustly and in abuse of its discretion.
2. We now ask that Conductor Hall be restored to service, with full seniority rights, and compensated for the time lost; also that his record be cleared of the charges.

OPINION OF BOARD: The facts material to a resolution of the instant dispute appear to be these: (1) On February 1, 1951, Pullman Conductor Hall reported for duty at the Cincinnati Terminal less than 30 minutes before the scheduled departure of his train for New York, in a physical condition which convinced his superiors he was unfit to fulfill the duties of his position and should be relieved and allowed to deadhead on the train to his home. (2) Conductor Hall did not inform his superiors of his condition. (3) In his superiors' judgment and belief—because of his unsteady movements, general demeanor of stupefaction and observed strong odor on his breath—he was intoxicated. They made no effort to obtain an objective, independent medical verification of their conclusion. (4) In the judgment of others, including the Organization, his behavior and odor could be explained by the medications of codeine and linaments that he had taken and was taking to alleviate the pain of the acute bursitis from which he had been suffering that day. (5) Conductor Hall at that time did not directly deny he had been drinking alcoholic beverages. (6) A hearing was held by the Company on April 10, 1951, at which testimony was presented by Conductor Hall and other witnesses. Here Hall denied he had done any drinking during that or immediately preceding days. On May 4, 1951, Conductor Hall was dismissed from service by the Carrier.

In a case like this, it seems to us, the claimant Organization faces the task of establishing beyond reasonable doubt that (1) the Carrier and its officials behaved in a highhanded, prejudiced, and unjust manner in their treatment of the employee; or (2) the discipline that they imposed was not compatible with the offense that they believe had been committed.

We think that the Organization has not successfully fulfilled this burden. The employee appears to have had a fair hearing. And the Organiza-

tion's testimony is insufficiently compelling to support the conclusion that Conductor Hall's behavior and demeanor on February 1, 1951, was not caused by indulgence in intoxicants.

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 Employee involved in this dispute are respectively Carrier and Employee 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 Carrier was not unreasonable or unjust in discharging the employee.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

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

Dated at Chicago, Illinois, this 30th day of June, 1952.