

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYES

GREAT NORTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the Joint Council Dining Car Employees, Local 516, on the property of the Great Northern Railroad, for and on behalf of Larry Powers, that Larry Powers be restored to his former assignment with seniority rights accumulated, unbroken and unimpaired and that he be compensated for net wages loss.

OPINION OF BOARD: The contention that claimant was not afforded a full and impartial investigation in accordance with the rules has no reasonable basis under the evidence presented and is without merit.

Claimant admitted a violation of Operating Rule 702 (second paragraph) so discipline was merited. In view of the fact that after the first incident between the claimant and the brakeman, the claimant followed the brakeman up through the car, picking up a beer can opener on the way, accosted the brakeman at the other end of the car and used the beer can opener as a weapon in the altercation which ensued, we are unable to say that he was acting solely in self-defense or that discharge was too severe a penalty for the offense committed.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That both parties to this dispute waived hearing thereon;

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

The Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 17th day of December, 1952.