

Award No. 6238

Docket No. CL-6210

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Mortimer Stone, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY & STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS & STATION EMPLOYEES**

THE PENNSYLVANIA RAILROAD COMPANY

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

The discipline of five days' suspension imposed upon J. E. Welsh, Station Baggage man, Pennsylvania Station, New York City, New York, New York Division, be removed from his service record and that he be reimbursed for all monetary loss sustained by reason thereof. (Docket N-306).

OPINION OF BOARD: While Claimant, a regularly assigned station baggage man, was moving a motor truck, loaded with fifteen or twenty pieces of baggage consisting of foot lockers, trunks and hand luggage, the left rear wheel of the truck slipped off the platform and the baggage lay against the windows of a car of the train to which it was to be delivered. Claimant's testimony at the hearing is not entirely plain, but it appears that the location of his truck at the time of the mishap was from thirty to forty feet from the baggage car, and that the engine was coupled to the baggage car so that Claimant was less than two car lengths away from the engineer who controlled the train movement. The time was about two or three minutes before the scheduled departure of the train. Claimant did not know just what time it was, but knew it was "getting close to leaving time." He made no attempt to notify the conductor, who was not in sight, nor of notifying the engineer, who, as he knew, was nearby in the engine; instead, he attempted immediately to move the baggage. Another baggage man arrived to assist just before the train pulled out, but the motor truck lay against the train at the time of its departure and there was resultant damage to the equipment and thirteen grab handles of the coaches in the train. It appears that a truck load of baggage ahead of Claimant was either entirely unloaded or lacked only three or four pieces when Claimant attempted to pull up and his truck wheel slid off the platform.

Claimant knew that the train might depart at any moment and an emergency existed which might result in serious damage if it moved before his truck wheel was lifted out of the pit. True, Claimant faced an emergency where immediate action was necessary, and in such case where decision is difficult, the wrong choice is excusable. But here, there could be no question or uncertainty as to the fact that the engineer who was less than two car lengths away could be notified, even if the conductor was not nearby, much more quickly than could fifteen to twenty pieces of foot lockers, trunks and hand luggage be unloaded and the truck wheel be lifted out of the pit. From the

record we think Carrier could find with cause that Claimant failed to take proper precaution to hold the train, and the penalty of suspension for five days, as finally assessed, was not excessive. Both for the protection of the public and of the employes themselves, there should be continued emphasis upon the standard rule that safety is of the first importance in the discharge of duty.

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 Employes involved in this dispute are respectively Carrier and Employes 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 Carrier's disciplinary action was not arbitrary and there are no grounds for disturbing it.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 12th day of June, 1953.