

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John Day Larkin, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: * * * for and in behalf of E. Dixon, who is now, and for some time past has been, employed by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company as a porter operating out of Chicago, Illinois.

Because the Chicago, Milwaukee, St. Paul and Pacific Railroad Company did, under date of April 7, 1954, take disciplinary action against Porter Dixon by giving him an actual suspension of ten (10) days; which action was based upon charges unproved and was unjust, unfair, unreasonable, and in abuse of the Company's discretion.

And further for the record of Porter Dixon to be cleared of the charge in this case, and for him to be paid for the ten (10) days pay he lost as the result of this unjust action.

OPINION OF BOARD: Claimant was notified on March 10, 1954, that he should appear to answer charges of failure to maintain cleanliness of the cars in his charge, in violation of Rules 71 and 73 of Book of Instructions to Porters; and of frequently lounging in coach seats during the trip, in violation of Rule 68 of the Instructions. At the request of Claimant's Representative, the hearing was postponed until April 1. At the hearing specific charges were made in a written statement prepared by Special Representative W. R. Jones of the Department involved, who left Chicago on Train 15, at 3:00 P. M., February 21, 1954, and observed Claimant's work that day and the following day. This statement was corroborated by another written memorandum prepared by Superintendent M. P. Ayars, who travelled with Mr. Jones on the same trip. Both made reference to specific instances of failure of Claimant in the performance of his assigned duties. These statements have been made a part of the record and were subject to rebuttal at the hearing.

Following the hearing, Claimant was suspended for ten days, effective April 7, 1954. This notice appeared over Superintendent Ayars' signature. The parties, being unable to resolve the dispute which arose as a result of the disciplinary action taken, have appealed the matter to the Board.

We must respect the right of Management to direct employes and to discipline them for failure to follow instructions which fall within the legitimate sphere of Management. Before this Board can properly substitute its judgment for that of Management in such matters, there must be a clear showing that the disciplinary action taken was without proper cause; that the Carrier's action was arbitrary, capricious, unfair and unreasonable.

The transcript of the hearing in this case is extensive. It has been carefully examined. In this we fail to find any proper basis for reversing the action taken by the Carrier. The real issue is over a proper standard of cleanliness to be maintained on first class accommodations. Obviously Claimant's standard of cleanliness is at variance with that of the supervisors of his department. Since Carrier's responsibility is one of maintaining first class accommodations for which the public is charged a special rate, it is necessary that standards of excellence in service be maintained. In this cleanliness is basic and essential. We are convinced, after a careful study of the record, that Claimant Dixon failed in his responsibility to keep the cars in his charge on February 21, and 22, 1954, in a proper state of cleanliness.

The Claim must be denied.

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

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 4th day of April, 1957.