

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Preston J. Moore, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS
(For and in Behalf of O. C. Bell)

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of O. C. Bell, who is now, and for some time past has been employed by The Pullman Company as a porter operating out of the Chicago District.

Because The Pullman Company did, under date of April 14, 1961, through Superintendent R. C. Duffy, discipline Porter Bell by giving an actual suspension of 21 days in his regular assignment, which disciplinary action was based upon charges which were not proved beyond a reasonable doubt as is provided for in the Agreement between The Pullman Company and Porters, Attendants, Maids and Bus Boys in the United States of America and Canada, represented by the Brotherhood of Sleeping Car Porters.

And further, because said disciplinary action is arbitrary, unreasonable, capricious, and in abuse of the Company's discretion.

And further, for the record of Porter Bell to be cleared of the charge in the instant case, and for him to be reimbursed for the 21 days pay lost as a result of this unjust action.

OPINION OF BOARD: This is a dispute between The Brotherhood of Sleeping Car Porters and The Pullman Company.

The Employee, Bell was charged with soliciting a larger gratuity than tendered by a passenger. Petitioner contends that the charge was not proved beyond a reasonable doubt.

The Board is of the opinion that the evidence in the record is sufficient to support a finding by the hearing officer that the Claimant was guilty of the charge against him beyond a reasonable doubt.

It is only when the evidence clearly indicates that the Carrier acted arbitrarily, in bad faith, or without just cause, that the intervention of this Board is permissible.

For the foregoing reasons, we believe the Agreement was not violated.

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of December 1962.