

Award No. 11153

Docket No. PM-12346

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Donald F. McMahon, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE NEW YORK CENTRAL RAILROAD

STATEMENT OF CLAIM: * * * for and in behalf of Coleman J. Grimette, who is now, and for some time past has been, employed by the New York Central System as a sleeping-lounge car attendant.

Because the New York Central System did, through Mr. I. L. Austin, Assistant Manager, Dining and Sleeping Car Service Department, under date of June 27, 1960, take disciplinary action against Mr. Grimette by giving him an actual suspension from the service of fifteen (15) days without pay, which disciplinary action was based upon charges which were not proved, and was therefore unjust, unreasonable, arbitrary, unfair, and in abuse of the Company's discretion.

And further because the nature of the evidence presented, upon which the discipline was exacted was such that Mr. Grimette could not have had a fair and impartial hearing.

And further because Mr. Austin, the Assistant Manager, Dining and Sleeping Car Service Department, acted in the capacity of prosecutor, judge, and appeals officer, having represented the case in the hearing handling its prosecution, having rendered a decision after hearing, and having sat in with Mr. A. H. Smith, Manager of Dining and Sleeping Car Service Department, in the appeal conference from which final decision sustaining the disciplinary action was made.

And further, for the record of Mr. Grimette to be cleared of the charge in this case, and for him to be reimbursed for the fifteen (15) days pay lost as a result of this unjust and unfair action.

OPINION OF BOARD: This docket, is a discipline case, wherein the employe Grimette was charged by Carrier as follows,

"Preparing food for service to guests on verbal order, train 59, May 9, 1960."

The employe after a hearing, was assessed a penalty, resulting in a suspension from service from Carrier, for four trips beginning July 2,

1960, and terminating July 16, 1960, a period of approximately fifteen days. The matter is on appeal to this Division.

A review of the record and testimony before us, shows the Claimant did receive a fair and impartial hearing from the Carrier. The record does not convince us that Carrier acted in a capricious, unfair or unjust manner toward this Claimant.

The record does not justify a sustaining award in favor of the Claimant.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 14th day of February 1963.