

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYES**

WESTERN MARYLAND RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the Systems Protective Committee of the Brotherhood (GL-5861) that

1. The Carrier violated the Clerks' Agreement when on June 1, 1964 it summarily dismissed Freight Handlers Fletcher Sykes and James A. Carter, Baltimore, Maryland from Service.
2. Freight Handlers Fletcher Sykes and James A. Carter shall now be reinstated to the service of the Carrier with seniority and all other rights unimpaired.
3. Freight Handlers Fletcher Sykes and James A. Carter shall now be compensated for all wage and other losses sustained account of this summary dismissal.
4. Freight Handlers Fletcher Sykes and James A. Carter shall now have their records cleared of all alleged charges or allegations which may have been recorded thereon as the result of the alleged violation named herein.

OPINION OF BOARD: There is no dispute about the substantive facts. The investigation record is full, complete and is not challenged. The only issue before the Board is: "Has the Carrier abused discretion and arbitrarily assessed unwarranted discipline by dismissing the employees?"

Petitioner argues that the Claimants had about fourteen years of seniority with the Carrier without any serious warnings or disciplines and since this is their first offense, "the discipline was unreasonable, arbitrary and an abuse of discretion."

Long and faithful service alone is not a criteria for reinstating employees who have been dismissed from service. It is necessary to examine the nature of the offense, the conduct of the employees at the time it occurred and at the investigation, the hearing procedure, the notice and charge, and whether the penalty assessed by the Carrier, in relation to the offense, was justified and not capricious or arbitrary.

Not only where the Claimants proven to be intoxicated while at work, but they admitted drinking on the property during their lunch hours, that they left their jobs at noon without permission from their supervisors, and that they did not return to complete the scheduled tour of duty. These are serious offenses in any employment, but it is particularly so in the railroad industry where the highest degree of safety is required.

Each case needs to be considered on its merits. Based upon all of the probative evidence in the record, there is no basis for the Board to substitute its judgment for that of the Carrier. Carrier was not arbitrary, capricious or unreasonable.

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

That the parties waived oral hearing;

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

Claims denied.

**NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION**

**ATTEST: S. H. Schulty
Executive Secretary**

Dated at Chicago, Illinois, this 20th day of May 1966.