



Award Number 17902

Docket Number CL-18466

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey ,Referee

PARTIES TO DISPUTE:

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

SOUTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood (GL-6655) that:

- (a) Carrier violated the Agreement at Atlanta, Georgia, when it dismissed Mr. Alphonse Wyatt, Porter-Red Cap, from the service of the Carrier for alleged failure to properly perform his duties as Porter-Red Cap, and overcharging for handling of bags.
- (b) Mr. Alphonse Wyatt shall be restored to the service of the Carrier with all rights unimpaired and shall be compensated at his daily rate of pay for each work day held out of service beginning November 6, 1967, and continuing until restored to service.

OPINION OF BOARD: The Claimant was dismissed from Carrier's service as Porter-Red Cap for alleged failure to properly perform his duties as Porter-Red Cap and overcharging for the handling of bags.

The Board has carefully considered the entire record in the dispute and finds that none of Claimant's substantive rights under the Agreement were violated. There was substantial evidence presented at the investigation to support the charge against the Claimant that he failed to properly perform his duties. However, the allegation that he overcharged for handling of bags was not substantiated. Disciplinary action was warranted but the Board considers permanent dismissal from the service to be excessive, and concludes that Claimant should be restored to service with seniority and all other rights unimpaired, but without pay for time lost while out of service.

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 discipline imposed was excessive.

A W A R D

Claim sustained to the extent indicated in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinios, this 8th day of May 1970.