

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Award Number 20782  
Docket Number CL-20856

Dana E. Eischen, Referee

(Brotherhood of Railway, Airline and Steamship  
( Clerks, Freight Handlers, Express and Station Employees  
PARTIES TO DISPUTE: (  
(Southern Railway Company

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood  
(GL-7598) that:

1. Carrier violated the Agreement between the parties when it arbitrarily, capriciously, and with abuse of discretion, dismissed Willie Favors, Dining Car Waiter, from its services effective April 11, 1973.

2. Carrier shall restore Willie Favors to service, clear his record of the charge, and compensate him for all wage loss suffered as a result less earnings from other employment, if any.

Carrier Docket: ASD-40571

OPINION OF BOARD: On April 11, 1973 Claimant Willie Favors was dismissed from service following an investigation on March 29, 1973 into charges that he had violated Rules 5A and 5G, Section 1 in the Manual of Instructions and Procedures, Dining and Tavern Car Section. Mr. Favors had been in Carrier's service some thirty-two (32) years and had only one prior incident of discipline and that was apparently in 1958 for oversleeping.

Petitioner has advanced a number of procedural arguments regarding the conduct of the investigating officer. We have reviewed the record and find that albeit there was some bickering and confusion, the investigation was on the whole conducted in a fair manner and Claimant was deprived of no substantive right under the Agreement.

We find that there was substantial evidence to support the charges against Claimant. Discipline is warranted in such circumstances but in view of Claimant's lengthy service and relatively unblemished record we conclude that dismissal is unreasonably and excessively severe. In all of the circumstances we conclude that Claimant should be restored to service with seniority and other rights unimpaired but without pay for time lost while out of service.

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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 unreasonably 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:

A. W. Paulsen  
Executive Secretary

Dated at Chicago, Illinois, this 31st day of July 1975.