

Award No. 2548
Docket No. 2313
2-PULL-EW-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Carl R. Schedler when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement, Electrician R. Stoesser considers that he was unjustly treated when his record card was assessed with a "Warning."
2. That accordingly the Carrier be ordered to remove the notation from his record card.

EMPLOYEES' STATEMENT OF FACTS: Electrician R. Stoesser, hereinafter referred to as the claimant, was employed by The Pullman Company as an electrician at the Chicago West District on June 4, 1949, and has been in their service ever since.

Under date of August 26, 1955, the claimant was notified to appear for a hearing at 2:00 P. M. on August 29, 1955. A copy of said notification appears in the hearing record, Pages 1 and 2, identified as Exhibit A.

On September 16, 1955, C. Hansen, foreman, Chicago West District, notified the claimant that his record card would be assessed with a "Warning." A copy of the notification is hereby submitted and identified as Exhibit B.

This dispute has been handled in accordance with the provisions of the current agreement, effective July 1, 1948, with the highest designated officer to whom such matters are subject to appeal, with the result that this officer declined to adjust this dispute.

POSITION OF EMPLOYEES: It is submitted that when the charge against the claimant, as follows, is considered:

"On July 6, 1955 you failed properly to perform D/W/M inspection on Car NEW FRANKLIN, as a result of which this car caused train delay at Fort Wayne, Indiana, due to the removal of a defective drive shaft."

is amply supported by the evidence and under principles established by the National Railroad Adjustment Board should not be disturbed.

The company requests that the claim of the organization in behalf of Electrician Stoesser be denied.

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The claimant entered the service of the carrier as an electrician on June 4, 1949. The carrier maintains that on July 6, 1955, the claimant made an improper D/W/M (Daily, Weekly, Monthly) inspection of Pullman car NEW FRANKLIN at Pennsylvania Yards, Chicago, Illinois, for which he received a warning on his record. A warning does not involve loss of pay or loss of time, but may be considered against the employe in meting out discipline for future misconduct or violations.

The record discloses that at Fort Wayne, Indiana, about 148 miles east of Chicago, a break in the drive shaft was discovered on the NEW FRANKLIN. The drive shaft operates between the driven unit and speed control unit underneath the car. At Fort Wayne the malfunctioning drive shaft was removed from the car, which proceeded on to New York and there held out of service until a new drive shaft was installed.

The carrier maintains that had the claimant made a complete and proper inspection the break would not have occurred. At the investigation of this dispute, the claimant testified there was nothing wrong with the shaft when the car left Chicago. This is not disputed. The claimant's foreman testified: "All I know is that the shaft broke off, due to what, I don't know. . . ." It seems to us that the carrier has taken disciplinary action on the presumption that the breakage occurred because of improper inspection. The proof offered fails to support the presumption. Furthermore, we find from the evidence that the claimant did make a proper inspection.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 8th day of July, 1957.