

Award No. 2550
Docket No. 2326
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 S. Gorniak 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 S. Gorniak, hereinafter referred to as the claimant, was employed by The Pullman Company as an electrician at the Chicago West District on June 23, 1943, and has been in their service ever since.

Under date of September 6, 1955, the claimant was notified to appear for a hearing at 3:00 P. M. on September 7, 1955. A copy of said notification appears in the hearing record, Pages 1 and 2, identified as Exhibit A.

On September 30, 1955, C. V. Hansen, foreman, Chicago West District, notified the claimant that his record card would be assessed with a "Warning". A copy of the notification is submitted herewith 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 August 11, 1955, while working at the Milwaukee Railroad Yards you failed to properly perform D-W Inspection on car NEW RIEGEL."

The Company requests that the claim of the organization in behalf of Electrician Gorniak 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 this dispute were given due notice of hearing thereon.

The claimant, an electrician employed by the carrier June 23, 1943, was disciplined by receiving a warning on the charge that he failed properly to perform a D-W (daily-weekly) inspection of Pullman Car "New Riegel" on August 11, 1955, in the Milwaukee Railroad Yards. A hearing was held on the charge on September 7, 1955.

The claimant inspected the car and placed his identification number on the servicing report indicating he had satisfactorily performed his inspection work. On the night of August 11, 1955, the car was deadheaded to Camp McCoy, Wisconsin, for military service from Camp McCoy to Kansas City via Chicago. Shortly after the car left Camp McCoy on August 12, 1955, trouble was detected in its air-conditioning unit. Upon arrival at Brighton Park, Illinois, about 1:00 A. M. August 13, 1955, repairs were made and the car functioned properly and continued on its journey.

We are unable to find from the record that the claimant made an improper inspection. On the contrary, we find from the record that his inspection on this occasion was proper and complete. As we said in Docket No. 2313, the disciplinary action was predicated on a presumption, namely, that the malfunctioning resulted from improper inspection. The proof offered fails to support such a presumption.

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.