

Award No. 4295

Docket No. 4107

2-PULL-EW-'63

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Joseph M. McDonald when the award was rendered.

PARTIES TO DISPUTE:

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

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement the Pullman Co., on March 28, 1961 unjustly treated Electrician F. A. Vitarelle in assessing a warning on his service record.

2. That accordingly, the Pullman Co., be ordered to remove the warning notation made on the service record of the aforesaid employe.

EMPLOYEES' STATEMENT OF FACTS: Electrician F. A. Vitarelle, hereinafter referred to as the claimant was employed by the Pullman Co., hereinafter referred to as the carrier, as an electrician in the Pennsylvania Terminal District, Sunnyside Yards, on March 21, 1950 and has remained continuously employed as such by carrier since that date.

Under date of March 3, 1961, carrier elected to notify claimant to appear for a hearing at 3:00 P.M. on March 13, 1961:

"On the charge that during your tour of duty, 12:00 Midnight to 8:00 A.M. January 18, 1961:

"You failed properly to inspect the amplidyne on car OLEANDER and make necessary repairs."

Hearing on the above charge was held as scheduled at 3:00 P.M. March 13, 1961.

On March 28, 1961, Carrier's General Foreman at Sunnyside Yards, R. Bucherati, directed a letter to the claimant advising:

"It is my decision, therefore, that you be assessed with a 'Warning'.

"Suitable notation will be placed upon your service record."

and satisfactory support, and when that is found our inquiry ends. Awards upon this point are so numerous as to make citation of any of them unnecessary." (First Division Award 14552)

The company also wishes to direct the attention of the Board to the following awards of the Adjustment Board with regard to the evidence on which the carriers found employes guilty of charges placed against them: Third Division Awards 4840, 5401, 6105, 7214, 7215, 7217, 7218, 7657, 7774, 7775, 9455, and 10071.

CONCLUSION: In this ex parte submission the company has shown that on January 18, 1961, Electrician Vitarelle failed properly to inspect the amplidyne on car OLEANDER and make necessary repairs. Additionally, the company has shown that awards of the National Railroad Adjustment Board support the company in this dispute.

The claim of the organization that the company unjustly treated Electrician Vitarelle in assessing a "Warning" on his service record is without merit and should 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.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant herein seeks to have a warning notation removed from his service record.

The warning was assessed after a hearing held on March 31, 1961 on the charge that Claimant had failed to make a proper inspection and the necessary repairs of the amplidyne on car OLEANDER.

We have before us the transcript of the hearing referred to.

It would appear that the sole question to be determined is whether when management suggests a short cut in inspection procedures, an employe is to be held derelict if he does not follow the manual.

This question arises from the evidence and arguments before us consisting of these factors:

1) Claimant's testimony on Page 4 of the transcript of evidence, which is uncontradicted by any other evidence, where he stated:

"I don't know how long this has been going on. As far as I know it has been quite some time since we were told to check for an M inspection and since we have so much work to perform, the foreman would say just to check the brushes on an M if you can. So that was the extent of my inspection."

2) The Carrier's answer to the alleged practice is that it is "unreasonable" to suppose that such instructions existed. (p. 2 of Carrier's rebuttal).

The assessment of the warning was not in accordance with the evidence adduced, and Claimant is entitled to the relief sought.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 24th day of September, 1963.