

Award No. 1767

Docket No. 1679

2-Pull-EW-'54

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Edward F. Carter 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 J. Chodelka, considers that he was unjustly treated when suspended from service for five work days during the period from January 5 to 12, 1953 and his record card noted accordingly.

2. That accordingly the Carrier be ordered to compensate him for the wage loss suffered by him during the period of January 5 to 12, 1953.

3. That accordingly the Carrier be ordered to remove the notation from his record card.

EMPLOYEES' STATEMENT OF FACTS: Electrician J. Chodelka, hereinafter referred to as the claimant, was employed by The Pullman Company as an electrician at the Chicago Central District on June 8, 1950 and has been in their service ever since.

Under date of November 28, 1952, the claimant was notified to appear for a hearing at 11:00 A. M. December 3, 1952. A copy of said notification appears in the hearing record, Pages 1 and 2, identified as Exhibit A.

Hearing was conducted on December 3, 1952 by A. W. Johnson, foreman, Chicago Central District. A copy of the hearing record is hereby submitted and identified as Exhibit A.

On January 2, 1953, A. W. Johnson, foreman, Chicago Central District, notified the claimant that he would be suspended from service for five work days during the period of January 5, 1953 to January 9, 1953. A copy of this notification is hereby submitted and identified as Exhibit B.

On March 11, 1953, we appealed this decision of Mr. A. W. Johnson. A copy of this appeal is hereby submitted and identified as Exhibit C.

The Pullman Company has shown, moreover, that as a result of Electrician Chodelka's negligent performance of duty the safety bracket fell off car HENRY HUDSON BRIDGE, causing damage to that car and necessitating its removal from services. Further, the company has shown that the discipline assessed Electrician Chodelka was reasonable and just in light of the infraction.

For these reasons, the company maintains that the organization's claim in behalf of Electrician Chodelka 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.

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

Electrician J. Chodelka was charged with having failed to make the daily inspection of car HENRY HUDSON BRIDGE in accordance with instructions, resulting in damage to the car on November 11, 1952. After a hearing, he was disciplined by a suspension from service for a period of five days. The organization contends that the action of the carrier was arbitrary and unjustifiable, and that the suspension should be set aside and the claimant paid for the time lost.

The incident which is the basis of this dispute extended over a considerable period of time and involved at least two other employes who were also disciplined by the carrier and whose appeals therefrom are pending before this Division. See Awards 1768 and 1769. We shall state the facts in detail herein and refer to them by reference in the other two pending cases.

It appears that Pullman Car HENRY HUDSON BRIDGE arrived at Mott Haven Yard on the New York Central Railroad on November 5, 1952, and was given a class "D" (daily) inspection on that day by Electrician Herman Staib who found the car to be in order insofar as the matters pertaining to the instant dispute are concerned. A class "W" (weekly) inspection was made on the car on the same day by Electrician J. Tornay, but it appears that his work was confined to the inside of the car because of the "D" inspection having already been made by Electrician Staib. The car was not required for service until November 9, 1952, when it departed from New York for Chicago on New York Central Train No. 25. The entire train was superficially inspected by New York Central car inspectors at regular inspection points between New York and Chicago. Upon arrival at Chicago on November 11, 1952, the car received a "D" inspection at Root Street Coach Yard. This inspection was made by Electricians Sparkman and Chodelka, the latter being the claimant in this case. They state that they found a drive belt missing from the driven unit beneath the car which they replaced. The car left Chicago for New York on November 11, 1952 on Train No. 26 (The Twentieth Century Limited). Car HIGH BRIDGE was the sixth car in the train and car HENRY HUDSON BRIDGE was the seventh. Shortly after the train passed South Bend, Indiana, the train conductor noticed (heard) something fall off of Car HIGH BRIDGE. The train stopped at Elkhart, Indiana, when it was discovered that there was a bad steam leak underneath Car HENRY HUDSON BRIDGE. No other defects were discovered under Cars HIGH BRIDGE and HENRY HUDSON BRIDGE, and the train proceeded to Toledo, Ohio, upon instructions after a fifteen

minute delay. Upon arrival at Toledo, Car HENRY HUDSON BRIDGE was cut out and it was subsequently deadheaded back to Chicago.

Upon arrival at Chicago the car was sent to the Root Street Coach Yard where it was examined by a joint group of New York Central and Pullman Company officials. The findings of this joint committee are important to the decision of the case.

It appears that the driven unit is suspended beneath the car on link hangers which rest on and are attached to the truck and sill of the car. As a safety device, what is termed a safety bracket is attached to the sill and truck on each side of the driven unit which extends down and across under the driven unit. The safety bracket is also equipped with two pieces of bar iron which form retaining locks for the link hanger pins. The safety bracket was missing when the train arrived in Toledo and one of the link hanger pins was gone because its retaining lock disappeared with the safety bracket. The other hanger pin was held in place by the binding force of the cocked position of the driven unit caused by the working out of the other hanger pin. The condition thus created was a precarious one causing potential danger to the safety of the train. The safety bracket was never found, although an extensive search was made for it along the right of way.

The safety bracket was designed to be attached to the truck and sill on each side by two $\frac{5}{8}$ " bolts with lock nuts and washers and one $\frac{5}{8}$ " cap screw extending into the driven unit hanger casting. The cap screw and one bolt on each side were missing with all indications that they had not been in place for some period of time. The two remaining bolt holes indicated by their shininess that the bolts had only recently been lost and that there had been considerable motion before their loss. The lateral widening of the bolt holes was indicative of this fact.

That the danger created and the damage resulting was caused by the loss of the safety bracket is self-evident. The evidence is quite convincing that the safety bracket was not knocked off by being struck by some object on the right of way. The safety bracket does not extend down as far as the driven unit support bar and is about four inches behind it. Other parts of the car with a lesser rail clearance were not struck, all of which leads to the conclusion, as found by the investigating committee that the safety bracket came loose and fell off because of the loss of the bolts and cap screws. The primary question then is whether or not this claimant is responsible in not observing the defective condition when he made the "D" inspection before the car left Chicago.

The finding of the investigating committee was that the cap screw and one bolt were missing on each side and that it would take several days to a week for conditions to materialize to the extent that they found there. The investigators were shown to be competent and we feel bound by their finding that the two cap screws and two bolts had been missing for a minimum of several days, and that the remaining two bolts had been loose for several days before the car was cut out at Toledo. This simply means that the bolts and cap screws were missing at the time of the "D" inspection at Chicago. It means, also, that the two bolts in place were loose at that time and that evidence was plainly existent that the safety bracket was in movement when the train was in motion.

The "D" inspection required a superficial inspection of underneath equipment and the checking of oil, gear drives and driven units. The instructions explained this work in the following language:

"The purpose of this inspection is to detect any defect that is visible, such as missing bolts, loose equipment, or any other condition which a quick check would disclose.

"Oil level should be maintained at mark on gauge stick. Visual inspection is to be made of gear drives, driven units, and suspensions."

While there was some controversy at the investigation of the claimant as to the requirements of a "D" check, the two electricians making the check appeared to have understood their duties as they were described by the carrier. Claimant and Electrician Sparkman replaced a belt on the driven unit at Chicago. To do this they were required to get under the car and come in close proximity to the driven unit and the safety bracket. We think the evidence shows that these two electricians should have observed the loss of bolts and cap screws, and the loose condition of the safety bracket. The exercise of reasonable care on the part of these men while performing the work they admittedly did, would have revealed the defects even if only a casual inspection had been made. A superficial inspection requires some casual observation of existing conditions. It requires them to see that which is in plain sight. But in the present case, the two electricians gave the matter no attention at all, although it was their plain duty to do so.

We think the evidence is sufficient to sustain the findings of the Carrier. The discipline assessed was not excessive and we can find no reason to disturb the action of the carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 26th day of May, 1954.