

Award No. 2122
Docket No. 1945
2-PULL-EW-'56

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 EMPLOYES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement, Electrician F. E. McKnight considers that he was unjustly treated when his record was assessed with a warning.

2. That accordingly the Carrier be ordered to clear his record card of this warning.

EMPLOYEES' STATEMENT OF FACTS: Electrician F. E. McKnight hereinafter referred to as the claimant was employed by the Pullman Company as an electrician at the New Orleans District on April 24, 1925, and has been in their service ever since.

Under date of August 23, 1954, the claimant was notified to appear for a hearing at 10:00 A. M., September 1, 1954. A copy of said notification appears in the hearing record, Page 1, identified as Exhibit A.

On September 30, 1954, E. J. Saucier, foreman, New Orleans District, notified the claimant that his record card would be assessed with a warning. A copy of this notification is hereby submitted and identified as Exhibit B.

On October 12, 1954, we appealed this decision of Mr. Saucier. A copy of this appeal is hereby submitted and identified as Exhibit C.

On December 6, 1954, Mr. Dodds, appeal officer, The Pullman Company, denied this appeal. A copy of this denial is hereby submitted and identified as Exhibit D.

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.

condition was in need of exchange to avoid this condition that did exist."

The National Railroad Adjustment Board has consistently maintained that where the carrier has not acted arbitrarily, without just cause or in bad faith, the judgment of the Board in discipline cases will not be substituted for that of the carrier. In Second Division Award 1323, Docket No. 1256, the Board stated:

"... it has become axiomatic that it is not the function of the National Railroad Adjustment Board to substitute its judgment for that of the carrier's in disciplinary matters, unless the carrier's action be so arbitrary, capricious or fraught with bad faith as to amount to an abuse of discretion. Such a case for intervention is not presently before us. The record is adequate to support the penalty assessed." (See also Second Division Awards 993, 1041, 1109, 1157, 1253. Third Division Awards 419, 431, 1022, 2297, 2632, 2769, 3112, 3125, 3149, 3235, 3984, 3985, 3986, 5011, 5032, 5881, 5974, 6103, 6108 and Fourth Division Award 257.)

CONCLUSION

In this ex parte submission, The Pullman Company has shown that on June 26, 1954, Electrician McKnight failed properly to make a weekly inspection of car SCHUYLKILL RIVER, with especial reference to Item 15. "Servicing Report", as a consequence of which it was necessary to use a substitute car. The record clearly establishes that if proper weekly inspection had been made Electrician McKnight would have noted the high mica condition on the commutator of car SCHUYLKILL RIVER. His failure to observe and report such a condition required the company to remove car SCHUYLKILL RIVER from service and to use a substitute car. The company submits that management's action in imposing a "Warning" upon Electrician McKnight was justified. The organization's request that the "Warning" be removed from his 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 employees 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.

Claimant is an electrician employed in carrier's New Orleans District. On September 1, 1954, he was given an investigation on the charge that on June 26, 1954, he failed to make a proper weekly inspection of car Schuylkill River as a consequence of which it was necessary to use a substitute car. The record shows that claimant inspected the compressor motor on the car by looking through the openings in the hand hole cover and observed nothing unusual. It is shown that the mica was high on the commutator and that the commutator was burned to such an extent that it had to be shopped. The evidence shows that an inspection would not necessarily reveal the burned commutator but that it would reveal the worn copper segments of the armature and the high mica condition which made the motor compressor unfit for service. Item 15 of Carrier's Servicing Procedures provides:

"Inspect compressor motors and generators 7½ K. W. and over. Applies to all compressor motors and to generators rated 7½ K. W. and over. Remove inspection covers and check brushes for wear and free movement in brush box. Examine commutator polarity

reversing mechanism and related parts visible through inspection openings."

The record shows that claimant inspected the compressor motor about 7:00 A. M. and that its defective condition was observed about 9:30 P. M. It is shown that compressor motor had been operating throughout the day. It is also shown that it required a matter of weeks or months for the defective condition to develop. We point out that the very purpose of inspections is to prevent operating failures. Consequently, careless inspections are responsible for operating failures. We think a proper inspection would have revealed that the compressor motor was in such condition that mechanical failure could have been anticipated. We think the evidence was sufficient to sustain carrier's action in assessing claimant's record with a warning.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 25th day of May, 1956.