

Award No. 2846

Docket No. 2715

2-PULL-EW-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 122, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

THE PULLMAN COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement The Pullman Company unjustly assessed Electrician A. Palmer's service record with a "warning".
2. That accordingly The Pullman Company be ordered to remove this "warning" from his service record.

EMPLOYEES' STATEMENT OF FACTS: Electrician A. Palmer, hereinafter referred to as the claimant, was employed by The Pullman Company as an electrician at the Chicago Central District on July 13, 1948, and has been in their service ever since.

Under date of August 9, 1956, the claimant was notified to appear for a hearing which was held August 29, 1956; a copy of this hearing record is submitted and identified as Exhibit A.

Under date of September 28, 1956, R. E. Glander, foreman, Chicago Central District, notified the claimant that his service record would be assessed with a "warning"; a copy of this decision is submitted and identified as Exhibit B.

Under date of October 19, 1956, we appealed this decision; a copy of this appeal is submitted herewith and identified as Exhibit C.

Under date of November 23, 1956, Mr. Dodds, appeals officer, denied our appeal; a copy of this denial is submitted herewith and identified as Exhibit D.

Under date of November 29, 1956, we notified Mr. Dodds that we intended to appeal his decision; a copy of this notification is submitted herewith and identified as Exhibit E.

resolve conflicts therein; (2) when there is real substantial evidence to sustain charges the findings based thereon will not be disturbed; (3) if the Carrier has not acted arbitrarily, without just cause, or in bad faith its action will not be set aside; and (4) unless prejudice or bias is disclosed by facts or circumstances of record it will not substitute its judgment for that of the Carrier." (See also Third Division Awards 419, 431, 1022, 2297, 2632, 3112, 3125, 3149, 3235, 3984, 3985, 3986, 5011, 5032, 5881 and 5974.)

CONCLUSION

The Pullman Company has shown that on July 3, 1956, Electrician Palmer failed properly to perform a daily inspection on car Thousand Islands in that he failed to apply a new belt, failed to detect a defective belt, and failed timely to notify his supervisor concerning the matter, as required by company instructions. Additionally, the company has shown that the "Warning" assessed against Electrician Palmer was reasonable and just.

The organization's claim in behalf of Electrician Palmer 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.

This claim seeks the removal of a "warning" from the grievant's service record which was assessed by the company after a disciplinary hearing conducted on a charge that he had "failed to properly perform a daily inspection on car Thousand Islands."

From the record it is clear that about fifteen minutes before the scheduled departure time of the car Assistant Foreman Coleman discovered the missing and faulty belts. He then looked at the record card which was already signed out for a daily inspection by the grievant. The record card failed to mention the faults. Later Coleman talked with the grievant and his partner Henderson. At that time it was acknowledged that the belt was missing. Incidentally, the employes deny saying that the car had been run on three belts. As this conversation is recorded in the transcript there is no showing that the record card was mentioned then or that it conflicted with what was then being said.

On the employes' part at the investigation, the grievant testified that he went up and signed the yellow card after the kick-backs were off and the repairs completed. There was a slight delay in the departure.

In its discretion, which we are not permitted to disturb unless it has been abused, the carrier has resolved the conflict in evidence in favor of the supervisor. This becomes understandable when it is noted that, although the grievant denied saying the car ran on three belts, his partner Henderson knew the belt was off when they conferred with Galloway in an earlier conversation. We conclude at the least that the orderly routine of inspection was not followed and that the faulty belt considered in evidence, coupled with the signed inspection report card, justifies the carrier in the conclusion reached.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 12th day of May, 1958.