

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

James M. Douglas, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of J. Sherman, who is now and for a number of years past has been employed by The Pullman Company as a porter operating out of the Chicago Central district.

Because The Pullman Company did, under date of September 25th, 1944 take disciplinary action against J. Sherman by assessing his record with a "warning" on charges unproved, which action was unjust, unreasonable, arbitrary and in abuse of the company's discretion.

And further for the record of J. Sherman to be cleared of a "warning."

OPINION OF BOARD: Petitioner was charged with being insubordinate to the Pullman Conductor in refusing to comply with his instructions to clean the car. A Warning was assessed against his record.

Petitioner claims the charge was not proved.

The Conductor stated that after two nights on the car Petitioner had not changed the linen; the car was in a very bad condition; the toilets and wash room were very unclean. When spoken to about the car Petitioner inferred he would run his car in his own way. Sometime thereafter the Petitioner was replaced. The new porter found the car "had been neglected for some time and was in a very dirty condition." A Pullman agent inspected the car and found it very dirty.

Petitioner's defense, in addition to a denial of the charge, was that since the car was filled with soldiers it could never be clean. This is in the nature of a confession and avoidance and does not impress us.

The proof was substantial and we may not disturb the action of the Company.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the whole record and all the evidence, finds and holds:

That the Carrier and the Employees involved in this dispute are respectively carrier and employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the charge was proved.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 25th day of April, 1945.