

Award No. 2946
Docket No. PM-2997

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Edward F. Carter, Referee)

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of E. J. Domantay who is now, and for a number of years past has been, employed by The Pullman Company as an attendant operating out of the Chicago District Commissary. Because The Pullman Company did, under date of October 13, 1944, take disciplinary action against Attendant Domantay by giving him an actual suspension of thirty days on charges unproved; which action was unjust, unreasonable and unjustified by the evidence presented.

And further, for the record of Attendant Domantay to be cleared of the charge made against him in this case and for Attendant Domantay to be reimbursed for the thirty days pay lost as a result of this unjust and unreasonable action.

OPINION OF BOARD: The Claimant, E. J. Domantay, was suspended from service for 30 days for refusing to report for his regular assignment and refusing also to protect the assignment until relief could be provided. Domantay alleges that the charges were not proved and that his record should be cleared and reimbursement made.

Claimant Domantay was regularly assigned as an attendant on Line 6516 between Chicago and New York. Cars of a type containing six beds were customarily operated on this Assignment. On August 25, 1944, the regular car was in bad order which necessitated the substitution of another car containing ten beds. About one hour and fifteen minutes before reporting time, Domantay telephoned the commissary office that he could not take this car out because it was too heavy for him. He was urged to protect the assignment until a relief man could be obtained. This he refused to do. On August 31, 1944, Domantay wrote S. E. Mitchell, Chicago Commissary, that the reason he refused to go out on his assignment was that the condition of his health would not permit him to perform the work on the larger car. The evidence established the fact that he made no mention of his health to the signout clerks when they were trying to get him to go out on his assignment. He says that he refused to protect the assignment because at some former time under similar circumstances he protected the assignment and was then required to go out with his car with the result he had to be taken off the train at Ft. Wayne, Indiana, because of illness. The fear of a similar experience, he says, caused him to refuse to protect his assignment on the day in question.

There is no evidence that Claimant was ill on the day he refused to go out on his assignment. It is true that there would be more work on the larger car but the assignment does not contemplate that any particular type of car would be exclusively used on the run. We think the evidence affirmatively shows that Domantay stubbornly refused to perform his assigned

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

That the dispute was certified to the Third Division of the Adjustment Board ex parte by complainant party; and

That hearing thereon has been held and concluded. Under date of July 3, 1945, the parties jointly advised the Secretary of the Third Division of their desire to withdraw it from further consideration by the Division, which request is hereby granted.

AWARD

Case dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 11th day of July, 1945.