

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 I. Jones who is now, and for some time past has been, employed by The Pullman Company as a porter operating out of the district of Atlanta, Georgia.

Because The Pullman Company did, under date of June 18, 1945, take disciplinary action against Porter I. Jones by assessing his record with a Warning on charges unproved; which action was unjust, unreasonable and in abuse of the Company's discretion.

And further, for the record of Porter I. Jones to be cleared of the charges made against him in this case and for the disciplinary action of a Warning to be expunged from his record.

OPINION OF BOARD: On February 20 and 21, 1945, Claimant was serving as a Sleeping Car Porter enroute Portsmouth, Virginia to Atlanta, Georgia. At about 5:00 P. M. on February 20, 1945, Pullman Conductor Parks discovered Claimant lounging in a drawing room and requested him to sit up. On his return some fifteen minutes later, Conductor Parks says he again saw Claimant lying down but said nothing to him. He came by again in about ten minutes and found Claimant still lounging in the drawing room. Conductor Parks says he again directed him to sit up and give attention to his duties after which Claimant became infuriated, shook his finger in the Conductor's face and said he wanted to be left alone.

Claimant denies the incriminating facts except that he admits being in the drawing room leaning on his elbow. The Train Conductor talked with Claimant shortly thereafter and the statements he made to Claimant are stated by him in the record. Claimant's story conflicts materially with that of Pullman Conductor Parks and Train Conductor Wheeler.

The operating rules for Car Service Employees provide that "Lounging in rooms by Pullman or train employees is prohibited". Claimant admits that he was familiar with this rule.

The evidence is in conflict. We have many times said that we will not weigh the evidence or attempt to determine the credibility of witnesses. The evidence is sufficient to sustain the Carrier's decision. There is nothing to indicate that the decision was arbitrary, unfair or the result of prejudice. There is some evidence of ill will existing between the Pullman Conductor and the Claimant but the mildness of the punishment assessed indicates that the case was impartially considered by the Carrier.

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 sufficient cause does not exist for disturbing the disciplinary action of the Carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 23rd day of May, 1946.