

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John W. Yeager, Referee

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PARTIES TO DISPUTE:

ORDER OF RAILWAY CONDUCTORS, PULLMAN SYSTEM

THE PULLMAN COMPANY

**STATEMENT OF CLAIM:** The Order of Railway Conductors, Pullman System, claims for and in behalf of Conductor K. A. Conyne of the Pennsylvania Terminal District that his record was wrongfully assessed with a "warning", when it was alleged that he gave misleading information to a prospective passenger, a Mr. O. Molmen, while receiving for PRR Train No. 67 at the Pennsylvania Station, New York on June 5, 1945.

**OPINION OF BOARD:** Conductor Conyne was a Conductor regularly assigned to the Pullman section of Pennsylvania train known as the "American" between New York and St. Louis. The leaving time on June 5, 1945 was 7:50 P.M. Conyne and another Conductor received passengers for the train. The carrier received a letter bearing date of June 13, 1945, from one A. Molmen in which he complained of treatment accorded him by a Conductor who was receiving on this train June 5, 1945. The letter, omitting the introductions, the first, fourth and seventh paragraphs, and the conclusion is as follows:

"Tuesday, June 5, I tried to board the American for St. Louis leaving Penn Station at 7:50 P.M., holding only a first-class ticket. With no Pullman ticket I was refused access to the train by the Pullman conductor. I asked if I could not buy a seat in the Club Car, but was informed that he could sell a seat ticket only to Harrisburg, Pennsylvania and since I was going beyond that point, no seat could be obtained. Consequently, I had to ride all night in the coach.

It seems to the writer, considering the amount of travel by the employees of our Company, that we should at least be able to buy a seat in a Club Car when they are not all occupied by passengers holding special seat tickets.

Several of us have boarded the American without a Pullman ticket and it has never happened yet when we were allowed to board a train that we did not obtain a berth at Harrisburg, or earlier.

If you feel that we are entitled to obtain a seat in the Club Car, I shall appreciate receiving a letter from you to this effect."

Following receipt of this letter it, or the complaint contained in it, was

called to the attention of Conyne. On July 13, 1945, he reported by letter that he had been in charge of four cars in the train and that the other Conductor was E. L. Funk, St. Louis District. In reference to the incident he wrote:

"I do not remember any particular man on this trip asking for space to St. Louis, but my usual method in the absence of the diagram is to inform passengers that I would sell them a seat in the lounge car to Harrisburg and if any vacancy develops before or after Harrisburg would take care of them. I have never been asked by anyone for a seat all the way to St. Louis and if I was I would certainly make the sale and also endeavor to transfer the passenger to berth space if any became available."

On August 15, 1945, responding to this subject, Conyne again wrote the carrier. In this letter he reiterated his former assertion that he had no recollection. The further effect of this letter is to say that if he in fact had contact with Molmen the incidents of the contact could not have been as contended by him. That such was contrary to his custom of handling in like or similar circumstances; that he had never handled any such incident in that manner; that the conduct attributed to him was not in keeping with conditions usually obtaining on the run which were known to him. He admitted a possibility that what was said was misunderstood by Molmen and gave assurance that in the future he would adopt a practice which would eliminate the possibility of misunderstanding with passengers in like or similar circumstances.

It was in the light of these facts that the carrier assessed the "warning" which the Organization seeks to have removed from the service record of Conductor Conyne.

The carrier in assessing the "warning" after receiving the letter from Conyne assumed the correctness of information contained in the letter from Molmen. It assumed that Conyne was the Conductor involved in the incident.

It appears reasonable that nothing should have been done to hazard this Conductor in his employment without doing something more than was done to identify him more certainly with the incident to which Molmen made complaint. On the record the "warning" should be removed.

**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 employes involved in this dispute are respectively carrier and employes 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 claim has been sustained.

#### AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: H. A. Johnson  
Secretary

Dated at Chicago, Illinois, this 1st day of April, 1948.