

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Dudley E. Whiting, 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 O. H. Wentz, Philadelphia District, that The Pullman Company violated Rule 49 of the Agreement between The Pullman Company and its conductors; also acted arbitrarily and in abuse of its discretion, when.

1. Under date of June 26, 1951 Conductor Wentz's record was assessed with a CAUTION, and
2. We now ask this CAUTION, be expunged from Conductor Wentz's record.

**OPINION OF BOARD:** It is contended that the discipline imposed on Claimant was barred by Rule 49, which provides in part:

"The conductor shall be notified in writing of the time and place of hearing and the specific charge against him not later than 90 days from the date the Company receives the original complaint. If the Company fails to notify the conductor of the time and place of hearing or fails to make a specific charge against him within 90 days from receipt of the original complaint, the complaint shall be barred."

The charge here arose out of alleged failure to follow instructions in handling of a Government request for transportation on January 9, 1951. That request and relevant reports were turned over to a Company representative in San Antonio on January 12, 1951. The written notice of hearing and charge to Claimant was dated April 14, 1951. The Company shows only that information as to the complaint did not reach the district superintendent until February 6, 1951. The rule specifies receipt by the Company not receipt by the district superintendent. On the evidence presented in this docket we think the complaint must be deemed to be barred by Rule 49.

**FINDINGS:** The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That both parties to this dispute waived hearing thereon;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employe 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 Agreement was violated.

**AWARD**

Claim sustained.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon  
Secretary

Dated at Chicago, Illinois, this 24th day of February, 1953.