

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 E. R. Wall, Richmond District, that:

1. The Pullman Company charged Conductor Wall as follows: "You arbitrarily refused to sell available space when requested by passengers and the train conductor."
2. The Pullman Company failed to indicate a single instance in which Conductor Wall "arbitrarily refused to sell available space" to any passenger.
3. The Pullman Company failed to indicate a single instance in which Conductor Wall "arbitrarily refused to sell available space" to any train conductor.
4. Despite this failure to substantiate the charges against Conductor Wall the Company penalized Conductor Wall with thirty days actual suspension.
5. In so doing the Pullman Company acted unjustly and in abuse of its discretion.
6. This suspension be expunged from his record.
7. Conductor Wall be credited and paid for all time so suspended.

**OPINION OF BOARD:** The claimant was disciplined after a hearing upon a charge that he "arbitrarily refused to sell available space when requested by passengers and the train Conductor". The Organization contends that the charge was not proven. We think it too narrow and technical a view to say that such a charge is proven only by showing that the conductor said he wouldn't sell space.

Here the claimant testified that at Columbus he told two passengers that he didn't have any space although he did have. There is a conflict in the statements of the train conductor and the claimant as to what happened at Ashland. Considering the evidence as to the contact of claimant by the general passenger agent and the fact that the train conductor and such general passenger agent placed two passengers in Pullman space there, it would not be wholly unreasonable to accept the train conductor's version of the incident.

We do not have facilities for the resolution of conflicts in evidence, so if the Carrier's evaluation of the evidence is not arbitrary and unreasonable and if there is substantial evidence to support the charge, the Carrier's decision thereon must be upheld.

**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

The Agreement was not violated.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon  
Secretary

Dated at Chicago, Illinois, this 13th day of October, 1953.