

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Edward M. Sharpe, Referee

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 J. L. Harrington, Salt Lake City District, that:

1. The Pullman Company acted arbitrarily and in abuse of its discretion when under date of February 9, 1952, the Company assessed Conductor Harrington's service record with a "Warning".

2. This "Warning" be expunged from Conductor Harrington's service record.

OPINION OF BOARD: Conductor Harrington had been in the employ of the Carrier since May 1943. On December 25, 1951, he was scheduled to report for overnight road service at 7:15 P.M. between Salt Lake City and Butte, Montana. The train was scheduled to depart at 8:00 P.M., but Conductor Harrington did not report for duty until after the train had left with another Conductor in charge.

Conductor Harrington's reason for not reporting on time is that he had a habit of taking a "nap" previous to making a night run; that on the day in question he was staying at a Motel; that he requested the clerk in charge to call him at 5:15 P.M., but that the clerk failed to call him; that he awoke at 7:40 P.M., and immediately left for the depot, but arrived there some four or six minutes after the train departed; that he then went to the office of the Superintendent and explained to the Relief Night Agent what had happened.

For failure to report the Carrier assessed Conductor Harrington's service record with a "Warning" under date of February 9, 1952. The Employees urge that the Carrier acted arbitrarily and in abuse of its discretion when it assessed Conductor Harrington's record with a "Warning", and now seek to have it expunged from his service record.

The Carrier maintains that disciplinary action was fully justified by the admitted facts in this record. As a general principle when there is substantial evidence to sustain charges, the findings based thereon will not be disturbed unless the Carrier acted arbitrarily or in bad faith. In the case at bar Claimant admits the truth of the charges and we are unable to see how we could justify an interference with the Carrier's discretion as exercised in this case.

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 oral hearing thereon;

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 the Carrier did not violate the Agreement in imposing the discipline of which the petitioner complains.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 9th day of February, 1954.