

Award No. 7428
Docket No. CL-7505

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

H. Raymond Cluster, Referee

PARTIES TO DISPUTE:

**BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES**

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

Discipline of reprimand imposed upon Elmer Garis, Station Baggage man, North Philadelphia Station, Philadelphia, Pennsylvania, Philadelphia Terminal Division, be removed from his record. (Docket E-910)

OPINION OF BOARD: Claimant was disciplined by a reprimand after a hearing on the following charge:

“Steering handle of baggage truck not in vertical position North Philadelphia Station, October 22, 1953—Safety Rule No. 5006.”

Safety Rule 5006 reads:

“Remove operating lever and remove or place steering handle in vertical position and secure it, when truck is on elevator, when loading or unloading material, or when operator is not on truck.”

The claim is that the evidence at the hearing did not support a finding that Claimant was guilty of the offense charged, and that the reprimand should be removed from his record.

At the hearing, there was testimony by an assistant passenger agent that on the date in question, he observed the steering handle of Claimant's baggage truck in a horizontal position while Claimant was five feet away from the handle, loading mail in the storage car of Train No. 25. He called Claimant's attention to the handle, pointed to it and told Claimant it was a violation of the rule. Claimant said: “I will watch it in the future.” The agent then walked away without moving the handle.

Claimant testified that the agent merely told him of the violation—he did not point it out to him. At another point, he testified that if the agent told him of the violation at the time it occurred, he was not aware of it. He denied that he made any statement to the agent that he would watch it in the future.

He also testified that when he completed loading mail on the storage car, he found the handle of the baggage cart removed.

While reasonable men might reach different conclusions on the basis of the evidence in this case, it is not our function to substitute our judgment for that of the Carrier; if there is substantial evidence to support Carrier's conclusion, that conclusion should not be disturbed. We have no doubt that there is such evidence here and consequently the claim must be denied.

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 1st day of October, 1956.