

**Award No. 9199**  
**Docket No. PC-9119**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

**Harold M. Weston, Referee**

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**PARTIES TO DISPUTE:**

**ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN,  
PULLMAN SYSTEM**

**THE PULLMAN COMPANY**

**STATEMENT OF CLAIM:** The Order of Railway Conductors and Brakemen, Pullman System, claims for and in behalf of Conductor C. V. Yarrow, San Francisco District, that:

1. The Pullman Company acted arbitrarily, capriciously, and without sufficient evidence in support of its position when it suspended Conductor Yarrow from the service February 10-March 10, 1956.
2. Conductor Yarrow's record be cleared of this discipline and this Conductor paid in full for each day that he was suspended.

**OPINION OF BOARD:** Claimant, a Pullman conductor with thirteen years service, was suspended by Carrier for a thirty-day period because he allegedly on September 13, 1955, overcharged three passengers—undercover agents of the Chicago, Burlington & Quincy Railroad travelling as a group—when transferring them to accommodations of higher value than those originally held and “failed to issue cash receipts to them.”

Before his suspension, Claimant was duly notified of the charges against him and accorded a hearing and investigation that appear to have been fair and in compliance with the requirements of Rule 49 and other provisions of the applicable agreement. We are not persuaded that Claimant was unduly prejudiced by any delays in submitting the evidence and notifying him of the charges against him.

There is substantial, credible and competent evidence in the record supporting the charges and, while that evidence is controverted, we are mindful of this Board's well-established principle that it is not our function to weigh conflicting testimony, determine the credibility of witnesses or upset findings of fact based upon competent, if contradicted, evidence. See Awards 8725 and 2768. Accordingly, we must find that, on the record before it, Carrier had sufficient grounds for its conclusions. There is no evidence, nor any reason to believe, that the complaining passengers maliciously manufactured a false story to harm Claimant.

It is further our opinion that the disciplinary action—a thirty-day suspension—decided upon by Carrier on the basis of its findings, is neither arbitrary nor capricious. It would appear to take into account the nature of the offense on one hand and, on the other, the length of Claimant's service, his excellent record and other mitigating circumstances. We will not substitute our judgment for that of Carrier in assessing discipline. The claim will be denied. See Awards 8715, 7363 and 7072.

**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 Employee involved in this dispute are respectively carrier and employee 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 applicable Agreement has not been violated.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of THIRD DIVISION

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 18th day of January, 1960.