

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS
THE PULLMAN COMPANY

STATEMENT OF CLAIM: "... for and in behalf of T. A. Seaton, who is now and for a number of years past has been employed by The Pullman Company as a porter operating out of the District of New Orleans, Louisiana, because The Pullman Company did, under date of March 21, 1940 discipline Porter Seaton by assessing his record with a 'reprimand' on charges unproved; and further, because in so disciplining Porter Seaton, The Pullman Company grossly abused its discretion, acted arbitrarily and used unfair methods in connection with the hearing held in this case and in the disciplinary action exacted on Porter Seaton following said hearing; and further, for the record of Porter Seaton to be cleared of the charges made against him in this case and of the disciplinary action taken as a result thereof."

OPINION OF BOARD: Following the observation of the method of receiving passengers at Little Rock, Arkansas, by Porter Seaton, the claimant, he was instructed by the District Superintendent of the New Orleans District as to the proper procedure, following which Porter Seaton was asked to write an acknowledgment of receipt of those instructions and submit it to Mr. Olney. The statement submitted by Porter Seaton did not include an acknowledgment of receipt of the instructions and upon further request he refused to make acknowledgment. Thereupon he was charged with insubordination and after a hearing was assessed with the discipline from which relief is sought by this claim.

Whether a porter shall be instructed or reinstructed as to his duties or service requirements is a matter for the carrier's determination. The acknowledgment of such instructions is usual and necessary for record purposes and is not an acknowledgment of guilt.

The basic dispute presented is whether or not such instructions and reinstructions are considered as disciplinary action. On this question the parties are definitely in disagreement.

The Board holds that the conflict in evidence on the question as to whether or not instructions or reinstructions are considered as disciplinary action indicates that the issue is such as to make it impossible for the Division to render an award thereupon and the question should therefore be remanded to the parties for settlement through conference and agreement.

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 employe 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 question as to whether or not instructions or reinstructions are considered as disciplinary action shall be remanded to the parties in accordance with the Opinion.

AWARD

Case is remanded in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 29th day of November, 1940.