Award No. 2633
Docket No. PM-2461

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Curtis G. Shake, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of L. H. Greene who is now, and for a number of years past has been, employed by The Pullman Company as an attendant operating out of the Chicago District Commissary. Because The Pullman Company did, under date of April 13, 1943, take disciplinary action against Attendant Greene on charges unproved; which disciplinary action was unjust, unreasonable and in abuse of the company's discretion. And further for the record of Attendant Greene to be cleared of the charge made against him and for him to be reimbursed for the fifteen days pay lost as a result of this unjust and unreasonable action.

OPINION OF BOARD: The claimant, a Pullman car attendant, was charged, tried and suspended for fifteen (15) days for having refused to accept an assignment to run from Chicago to Fort Myers, Florida. The claim is that the charge was not proved and that the penalty was excessive.

It is admitted that the claimant refused the assignment, but he says that he was justified in so doing because on a previous run to Florida, a conductor talked abusively to him about an incident for which he was not responsible, and that a brakeman told him that said conductor had it in for him and would make trouble for him if he ever crossed the conductor's path again. The claimant was unable to name or otherwise identify the conductor, nor could he approximate the date of the incident, further than to say that it occurred "several months ago."

There was evidence which, if believed, was sufficient to support an inference that no such occurrence as that related by the claimant ever took place. The carrier's hearing official had the witnesses before him and was entitled to resolve the conflicts in their testimony. We cannot substitute our opinion for his on the weight of the evidence.

The claimant asserts that it is customary for the carrier to excuse an employe who advances a good reason for not accepting a particular assignment and that, under the rules, an employe so excused automatically goes to the foot of the extra board. From this premise it is argued that the claimant ought not to have been required to take the assignment in question and that, in any event, he would have been sufficiently punished by having his name placed at the bottom of the extra board, thereby depriving him of being called for work for seven or eight days. In other words, the claimant contends for the right to be the judge of his own conduct and to fix the penalty for his infractions. We cannot subscribe to any such course of reasoning. To do so would completely destroy the company's undoubted right to exercise reasonable control over its employes.

We find nothing in this case to indicate an abuse of discretion.

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 no violation of the Agreement has been established.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 14th day of July, 1944.