

Award No. 2798
Docket No. PM-2864

**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 Frank Williams 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 Denver, Colorado.

Because The Pullman Company did, under date of March 30, 1944, take disciplinary action against Porter Williams and assess his record with a Warning upon charges unproved; which action was unjust, unreasonable, arbitrary and in abuse of the Company's discretion.

And further, for the record of Porter Williams to be cleared of the charge and the penalty of a Warning that has been imposed upon Porter Williams be set aside.

OPINION OF BOARD: For the purposes of this case all we need say about the facts is that the Claimant was, on the first charge, assessed with a warning upon a showing of insubordination with respect to a Conductor to whom he was responsible. The evidence relating to that charge consisted of the written report of the Conductor and the written statements of the Claimant, supplemented by his oral testimony. The Petitioner urges that the evidence was insufficient because there was no corroboration of the Conductor's statements. We are asked to pass upon the credibility of the witnesses and to weigh the evidence, which this Board has consistently declined to do.

The second charge of misconduct set forth in the notice of hearing given to the Claimant by the Management under date of February 5, 1944, may be ignored as immaterial to this inquiry, inasmuch as the salutary warning given the Claimant, was, in our judgment, amply justified by the facts relating to the first.

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 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 action of the Management in disciplining the Claimant was not improper.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 8th day of February, 1945.