

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

James M. Douglas, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of E. S. Hawkins, who is now and for a number of years past has been employed by The Pullman Company as a porter operating out of the Washington District.

Because The Pullman Company did, under date of October 12, 1944, take disciplinary action against E. S. Hawkins by giving him an actual suspension of thirty days, on charges unproved, which action was unjust, unreasonable, arbitrary and in abuse of the company's discretion.

And further for the record of E. S. Hawkins to be cleared of the charges made against him in the instant case and E. S. Hawkins to be paid for the thirty days pay lost as a result of this unjust and unreasonable action.

OPINION OF BOARD: Petitioner, a bus boy assigned to a 4-room-lounge-buffet car, was charged with permitting a woman coach passenger to occupy accommodations in his car for a portion of the trip without payment of additional fare. He was suspended for thirty days.

The question for decision is whether the charge was proved against Petitioner. It turns chiefly on the sufficiency of his identification. We find the evidence of his identification was substantial and sufficient to sustain the charge.

In her statement the woman did not disclose the name of the person who invited her into the pullman. She said: "The Pullman porter on train came to the day coach which was crowded . . . The porter was very nice to me. He invited me to ride in the Pullman free. . . ."

The Pullman conductor upon being informed by the train conductor that a colored woman had ridden in a Pullman from Richmond to Savannah on a coach ticket went to the colored coach accompanied by the train conductor where they questioned the woman. The Pullman conductor stated she told them she was taken to the car in back of the diner and placed in a compartment. He continued: "We then asked her where she was when we checked the train . . . she told us that Hawkins put her in the room with coca cola, etc. until after we passed. . . ." She paid the train conductor the \$8.00 step-up on her coach ticket.

The statements of the two conductors are not as complete as might be on the question of connecting Petitioner with each step of the incident. However, the woman would, no doubt, be reluctant under such circumstances to go into full details. The statements identify Petitioner and are supported by circumstantial evidence found in the record. Petitioner's car was the car in back of the diner. His car was the only car having a coca cola room.

This case is distinguishable from Award 2797 of this Division on the facts. There an identification based on statements of others repeating what was termed the "conclusions" of an absent witness as to the identification of the petitioner in that case was held insufficient.

In this case the evidence of identification supports the finding against Petitioner.

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 charge was proved against Petitioner.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 25th day of April, 1945.