

Award Number 3127

Docket Number PM-3178

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Luther W. Youngdahl, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of J. L. Tookes 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 St. Louis, Missouri. Because The Pullman Company did, under date of December 28, 1944, deny the grievance claim of Porter Tookes filed in his behalf because of unjust treatment and loss of pay suffered by him as a result of him having been put off of a train to which he had been assigned at the instance of the Pullman Conductor in charge of the train at East St. Louis, Illinois, on April 25, 1944.

And further, for the reversal of the decisions of District Superintendent T. C. Birch and Assistant to Vice President B. H. Vroman in this case.

And further, for Porter Tookes to be paid for the loss he suffered as a result of being put off of the train and not allowed to complete the trip to which he had been assigned.

OPINION OF BOARD: The question in this discipline case is whether the record sustains the charge that Claimant was guilty of insubordination in refusing to obey the orders of the Conductor and in being abusive in his conduct toward him. There is a sharp conflict in the evidence as to what occurred. Our duty is not to weigh the evidence and determine which story has the greater probative value but rather to determine if there is reasonable basis in the record for the discipline.

This was a troop train and Claimant was assigned as Porter on Pullman Car 7148 (troop sleeper). It is Carrier's position that when the Conductor found the soldiers taking down the beds he said he would get a porter. When he found Claimant in another car he commanded him to return to his car but Claimant refused to do so. The Conductor then told him that he would wire for a porter to relieve him if he did not obey his order. When the Conductor turned and walked through the car Claimant followed him using profane and threatening language. Claimant's breath smelled of whiskey. Claimant vigorously denies that he refused to obey orders; denies that he used profane or threatening language and denies that he had been drinking. Claimant's theory is corroborated by the statement of another porter on the same train.

The position of Carrier is corroborated by the statements of two servicemen on the train; one of whom, a Major Showers, stated that he smelled liquor on the breath of Claimant and another, a Sergeant, who stated that he heard Claimant use profane, abusive and threatening language to the Conductor.

In this state of the record we would not be justified in disturbing the action of Carrier. However, the record suggests that this Conductor could be more discreet in the handling of men.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary.

Dated at Chicago, Illinois, this 21st day of February, 1946.