

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. E. Coleman who was formerly employed by The Pullman Company as a porter operating out of the Chicago Western District. Because The Pullman Company did, under date of March 7, 1945, discharge Mr. Coleman from his former position as a porter in the above mentioned district on charges unproved.

And further, because Mr. J. E. Coleman did not have a fair and impartial hearing;

And further, that Mr. J. E. Coleman be restored to his former position as a porter in the Chicago Western District and that he be paid for all time lost as a result of this unjust and unreasonable action.

OPINION OF BOARD: The trouble resulting in the discipline in the instant case probably would not have occurred, had it not been for the conduct of Brakeman Griffith toward Claimant. The door of Car 58 was closed by Claimant in the performance of his duty. Had he not closed it, and a passenger had been injured, Claimant would have been subject to discipline for failing to obey the rules. The record shows that when Claimant closed the door, he had no knowledge that it had been left open by the train conductor or brakeman. Claimant observed neither the conductor nor brakeman prior to the closing of the door. Little wonder then, that Claimant became irritated when taken to task not only by the conductor but more impudently and unjustifiably by the brakeman. The conductor stated that Claimant did not raise his voice when he discussed the matter with him, but that he acted very independent. It is not hard to understand why he was independent when taken to task for obeying the rules. The conductor seemed to be satisfied by Claimant's explanation and the matter would, no doubt, have ended there, had it not been for the attitude of the brakeman.

In his statement, the brakeman admits saying, "I asked him what he was trying to pull off closing those doors." The brakeman by this conduct asked for trouble. He had no authority over Claimant but was an intermeddler, and was wrong in adding fuel to the fire when the conductor had already criticized Claimant for doing something he was required to do under the rules.

No matter how much Claimant was unjustifiably aggravated, there was no warrant for an assault, let alone the use of a pen knife. The evidence is not too convincing that Claimant initiated the assault. However, even though the brakeman started it, there was no excuse for the use of the knife.

It must be borne in mind, however, that Claimant was using the small pen knife, endeavoring to get out a piece of a key which had broken in the lock of the door at the time the conductor and brakeman came up and accused him of doing something wrong.

The statements of two of Carrier's employes are significant and are corroboration for the fact that this Claimant was not fairly treated.

Sleeping Car Conductor Wood stated:

"From my observations of Porter Coleman and in this instance I do not believe that Porter Coleman deliberately closed these doors to inconvenience either the conductor or the brakeman and it is quite possible that the porter was prompted in his actions by the razing that the train conductor or brakeman gave him, although I was not a witness to the actual disturbance, this is just my observation, as porter Coleman has always performed his work in a good manner and seemed to know his work well."

Inspector Hobart who investigated the case stated that Claimant did not realize that the conductor or brakeman had opened the door of his car.

In addition to the penalty of the loss of his job, Claimant was kept in jail for several days and fined \$200.00 by a Justice of the Peace.

In view of all the circumstances leading up to the actual altercation, we feel that the punishment which Claimant has received is too severe. A little more thoughtfulness and consideration for menial employes by those who have authority over them will go a long way toward preventing the kind of disturbance that brought about this case.

We conclude that Claimant should be reinstated to his former position but that the claim for time lost be denied.

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 Carrier violated the Agreement in meting out too severe punishment which was disproportionate to the facts herein.

AWARD

That Claimant be restored to his former position with no pay for time lost.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated Chicago, Illinois, this 1st day of March, 1946.