

Award No. 4228

Docket No. PM-4047

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

H. Nathan Swaim, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of P. R. Greene, who is now, and for several years past has been, employed by The Pullman Company as a porter operating out of the Pennsylvania Terminal District of New York, New York.

Because The Pullman Company did take disciplinary action against Porter Greene by penalizing him with an actual suspension of ten (10) days as the result of charges preferred against him on account of alleged violation of rules on trip January 27-28, 1947.

And further, because said charges were unproved and said disciplinary action was unjust, unreasonable, and in abuse of the Company's discretion.

And further, for the record of Porter Greene to be cleared of the charges in this case, and for him to be paid the ten (10) days' pay lost as a result of this unjust and unreasonable action.

OPINION OF BOARD: The Claimant, Porter Greene, was suspended for ten days on a charge that:

(1) he was argumentative and disrespectful towards Pullman Conductor J. I. McWhorter, and

(2) he temporarily deserted his assignment by removing his uniform coat, going to the day coaches and remaining there at the time the train was in Raleigh, N. C., making it necessary for a dining car employe to discharge one of his passengers at that point.

The Organization claims that this disciplinary action was unjust and arbitrary because the charges against the Claimant were not proved.

The statement of Conductor McWhorter that Claimant failed to discharge his passenger at Raleigh, N. C., was supported by the statements of Pullman Conductor Van Camp under whom Claimant was working, and by the statements of Waiters Howard and Pierce. The statements of both waiters stated that Claimant had taken off his uniform coat and was sitting in the colored coach while the train was at Raleigh. While Claimant denied the above there was ample evidence to support the findings of the Company that Claimant was guilty of the second charge.

As to the charge that Claimant was argumentative and disrespectful we also have the statement of Conductor McWhorter supported by the statement of Waiter Howard. While the statements of this subject are denied by the Claimant they also furnish sufficient evidence to sustain the charge.

Here again we have the evidence of all of the witnesses for the Company presented only by their written statements. This practice is not to be commended, but we find nothing in the record to show any objection by the Claimant or by the Organization of these statements being so used.

A consideration of this entire record fails to disclose any valid reason for this Board to disturb the action taken by the Company.

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 employe involved in this dispute are respectively carrier and employe 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 Carrier did not violate the Agreement as claimed.

AWARD

The Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 13th day of December, 1948.