

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Carroll R. Daugherty, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of George Lewis, who is now, and for some time past has been, employed by The Pullman Company as a porter operating out of the Chicago Central District.

Because The Pullman Company did, under date of August 22, 1951, render a decision in which the record of Porter Lewis was assessed with a "Warning", which action was unjust, unreasonable, arbitrary, and in abuse of the Company's discretion.

And further for the record of Porter Lewis to be cleared of the charge in the instant case, and for the disciplinary action (a warning) to be expunged from his record.

OPINION OF BOARD: From the statements of facts and positions by the disputants in this case it seems possible to establish little but the following: (1) The allegations and contentions of the Organization are diametrically opposed to those of the Carrier. Essentially the issue rests on the word of Porter Lewis versus the word of Pullman passenger Hooser. (2) In accordance with the Agreement between the parties a hearing was held by the Carrier on its charge, based mainly on the passenger's letter that Lewis had behaved "in an argumentative, abusive, and threatening manner". (3) At this hearing Lewis' representative declined to permit Lewis to be fully cross-examined. (4) Subsequent to the hearing the Carrier disciplined Porter Lewis with a "warning".

The Organization properly asks why the Carrier, if it believed the passenger's story, did not apply harsher discipline. We think that the Carrier's action may appropriately be interpreted as (1) believing that there was a fair measure of substance in that story, but (2) also wishing to be fair in view of the lack of corroborative evidence. It does not appear that the Carrier acted arbitrarily and unreasonably or in bad faith or with bias against its employee.

In view of these considerations the Board does not feel justified in substituting its judgment for that of the Carrier and in setting aside its disciplinary action. We think that the Organization's claim should not be sustained.

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 herein; and

That Carrier was not unreasonable or unjust in disciplining the employee.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Acting Secretary

Dated at Chicago, Illinois, this 30th day of June, 1952.