

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Paul G. Jasper, Referee

PARTIES TO DISPUTE:

ORDER OF RAILWAY CONDUCTORS, PULLMAN SYSTEM

THE PULLMAN COMPANY

STATEMENT OF CLAIM: The Order of Railway Conductors, Pullman System, claims for and in behalf of Conductor A. Walecka, Chicago Northern District, that:

1. Under date of October 23, 1950, The Pullman Company advised Conductor Walecka that he would be suspended for one round trip commencing on November 1, 1950, and that he would report again for his assignment on November 10, 1950, and a notation of this disciplinary action was being placed upon his record.
2. We now ask that Conductor Walecka be credited and paid for the trip that he lost, and that this notation of discipline be expunged from his record.

OPINION OF BOARD: Conductor A. Walecka was disciplined by his employer, being suspended for one round trip commencing November 1, 1950. The charge upon which the discipline was based is as follows:

"* * * that when a passenger holding coach transportation expressed a desire to obtain Pullman accommodations you failed to assist the passenger in obtaining a first class railroad ticket, failed to accommodate her in a Pullman car and ordered her into the coaches."

The claimant contends that under the facts and circumstances of the case the evidence does not support the action of the Carrier in assessing discipline of nine days. That it was unjust and unwarranted.

The charge arose out of the fact that a Mrs. Stevens who had boarded a train in New York going to Boise, Idaho, to attend the funeral of her father was joined in Chicago by her sister. Both going on the "City of Portland", Mrs. Stevens had accommodation on car numbered 1052, Roomette 3, and her sister had a chair car seat. They decided to travel together in the Pullman and inquired of the Porter about changing accommodations from the chair car seat to the Pullman. The Porter informed them this could be done and to contact the Pullman conductor. The two sisters with their baggage remained in the roomette until the claimant arrived. Out of what followed a complaint was made to the Carrier by the husband of Mrs. Stevens seven days later. The husband was not a passenger on the train, and his statement of what took place on the train is hearsay.

After the original complaint, the District Superintendent interviewed the claimant. The claimant then wrote the Superintendent that he could not recall the incident and that Pullman space was available on the train. Statements were then obtained from the two sisters involved as well as from the train Conductor and car Porter.

In examining the evidence, if there is substantive evidence of probative value to sustain the charge, the claimant is subject to discipline. Then the only remaining question is whether or not the discipline imposed is capricious, unreasonable, or arbitrary and an abuse of discretion by the Carrier. If there is not an abuse of discretion, the claim must be denied.

After examining the evidence in this claim, we find that there is substantive evidence of probative value that Mrs. O'Donnell desired to change her accommodations from a chair car seat to Pullman and pay the difference, that there was space available, that the claimant did not assist her in obtaining a first class railroad ticket, that he failed to accommodate her in a Pullman car, that he did order her out of the car, that the claimant told Mrs. O'Donnell in the presence of Mrs. Stevens that "You get up in your own car, you will have to see your Conductor up there. I can't do anything about your tickets and hurry up and get out of here and take your baggage with you and don't come back here." The following morning when Mrs. O'Donnell was going to her sister's roomette to awaken her to have breakfast, she was again order from the car. There is ample evidence to prove the charge.

The discipline assessed of suspension from service for one round trip was neither unreasonable, arbitrary or capricious. There was no abuse of discretion.

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 action of the Company in suspending A. Walecka from service was proper.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

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

Dated at Chicago, Illinois, this 18th day of July, 1952.