

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

**ORDER OF RAILWAY CONDUCTORS OF AMERICA
CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of the Order of Railway Conductors of America for and in behalf of Conductor W. J. Snip:

1. The Chicago, Milwaukee, St. Paul & Pacific Railroad Company violated Rule 39 of the Agreement between the Milwaukee Road and its Sleeping and Parlor Car Conductors, when Conductor Snip's record was assessed with a penalty on charges unproven as Management used hearsay evidence to sustain charges against Conductor Snip and also failed to produce the primary accuser as provided in Rule 39.
2. Therefore the hearing granted Conductor Snip was not a fair and impartial hearing as provided in the Agreement.
3. We now ask that Conductor Snip's record be cleared of all charges made against him.

OPINION OF BOARD: This is a discipline case in which claimant was charged with "discourteous, abusive, and unwarranted treatment of fellow employees." The fellow employee was a ticket agent whom claimant called in connection with advice the former had given a lady passenger to whom he had sold a ticket. Carrier stated at the investigation that the proper place to have reported the incident was to the office of Superintendent of Sleeping and Dining Cars. Claimant's representative thereat agreed.

The record of investigation contains claimant's admission that "While in there I called the ticket agent and I said, let's get this thing right, let's cut your head in and get this right * * *." The Carrier contends that this admission supports the charge of discourteous, abusive and unwarranted treatment of the ticket agent. We do not think so. It is entirely plausible to construe claimant's remark, supra, as a request that they get their heads together to avoid similar misunderstandings in the future.

While the Organization alleges impropriety in the holding of the investigation because the primary accuser was not present, no request was made for a continuance during the investigation.

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 in the particular circumstances in this case, claimant's record should be cleared of the charges against him.

AWARD

Claim disposed of in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 11th day of October, 1954.