

Award No. 13080

Docket No. PC-14677

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Daniel House, Referee

PARTIES TO DISPUTE:

**ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN,
PULLMAN SYSTEM**

THE PULLMAN COMPANY

STATEMENT OF CLAIM: The Order of Railway Conductors and Brakemen, Pullman System, claims for and in behalf of Conductor K. F. McWayne, Chicago District, that the Pullman Company acted arbitrarily and in abuse of its discretion when:

1. Conductor McWayne was suspended from service for one round trip in his regular assignment commencing August 29, and ending September 10, 1963.

We further claim that the Company's action in suspending Conductor McWayne from service was not based on the record.

2. We now ask that this suspension be expunged from his record, and that he be paid for all lost time.

OPINION OF BOARD: Organization claims that Company's suspension of Conductor K. F. McWayne for one round trip of his regular assignment was not based on the record and was an arbitrary and capricious action. McWayne was alleged to have failed properly to perform his duties as a conductor in a number of particulars; after a hearing, Company found that the charge was substantiated by the evidence and, imposed the discipline after also considering McWayne's service record which in over nineteen years included fifteen commendations, two actual suspensions, one caution and seven warnings.

A number of specifications of the charges were proved beyond any reasonable doubt by the evidence in the record; so that we find that the action of the Company was based on the record. While it is evident that one individual deciding the extent of discipline might reasonably have arrived at a lesser penalty, it is equally evident that a different individual might also reasonably have set the penalty at suspension for one round trip as was done here; but whether one reasonable decision is more reasonable than another is not the question we have presented to us: Organization argues that the Company's action was arbitrary and capricious and an abuse of its discretion; on the facts before us we cannot agree.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 18th day of November 1964.