

Award No. 14358

Docket No. 23892

FIRST DIVISION

NATIONAL RAILROAD ADJUSTMENT BOARD

39 South La Salle St., Chicago 3, Illinois.

The First Division consisted of Engineers' & Firemen's Supplemental Board Members and in addition Referee Paul N. Guthrie when award was rendered.

PARTIES TO DISPUTE:

**BROTHERHOOD OF LOCOMOTIVE FIREMEN AND
ENGINEMEN**

**PENNSYLVANIA RAILROAD COMPANY—
WESTERN REGION**

STATEMENT OF CLAIM: Appeal of Passenger Fireman M. A. Bell, disciplined by suspension of one week account "Refusing to allow Special Duty Man to fire engine and not obeying instructions, Train No. 28, Engine No. 5507, March 16, 1946.

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act, as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The evidence in this record does not sustain the formal charge that Fireman M. A. Bell refused to allow the Special Duty Man to fire engine, No. 5507, on March 16, 1946. Certainly the evidence does not sustain a charge of insubordination. The most that the evidence sustains is the fact that an argument took place. The record of the trial shows clearly that Bell's actions were certainly in good faith and in no sense insubordinate.

In passing it may be asked why the engineer on this train, who was the only witness to the events apart from Bell and Whitbey, was not called to testify at the trial.

Under the facts an affirmative award is justified.

AWARD

Claim sustained.

**BY ORDER OF FIRST DIVISION
NATIONAL RAILROAD ADJUSTMENT BOARD**

**ATTEST: (Sgd.) T. S. McFarland,
Executive Secretary.**

Dated at Chicago, Illinois, this 29th day of March, 1951.