

Award No. 2030
Docket No. 1881
2-CB&Q-EW-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee David R. Douglass when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 95, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Electrical Workers)**

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current agreement Lineman Darrell C. Niles was unjustly dealt with when he was charged for meals and same deducted from his pay check without authority on August 25, 26, 27, 28, 31, September 1, 2, 3, 4, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29, 30, 1953, and subsequent days.

2. That accordingly the Carrier be ordered to reimburse the aforesaid Lineman for each and every illegal charge for meals deducted from his pay check retroactive to August 25, 1953.

EMPLOYEES' STATEMENT OF FACTS: Lineman Darrell C. Niles, hereinafter referred to as the claimant, is employed as such by the carrier. The Claimant's work consists of line construction and repair which requires him to work out of a boarding outfit. Through arrangements with the carrier, the American Boarding and Supply Company serves meals in a dining car attached to this boarding outfit, charging employees a set fee for a meal.

On August 28 and September 4, 11, 18 and 25, 1953, two meals a day were charged and deducted from pay of the claimant and only one eaten.

On August 25, 26, 27, 31, September 1, 2, 3, 8, 9, 10, 14, 15, 16, 17, 21, 22, 23, 24, 28, 29 and 30, 1953, three meals per day were charged and deducted from pay of the Claimant and only one meal was eaten.

The claimant did not authorize the carrier to make the deductions in dispute.

The dispute was handled with carrier officials designated to handle such affairs, who all declined to adjust the dispute.

The agreement effective March 1, 1952, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is submitted that the claimant believes he has been unjustly dealt with when charges for meals not eaten on dates

able to him. As evidenced by Exhibit No. 1, he has now recognized that fact in the most convincing manner possible by withdrawing the claim.

The first portion of the statement of claim includes the phrase "and subsequent days". The claim presented by the claimant in his letter of October 10, 1953, referred to in carrier's statement of facts, specified the dates, which are listed in the statement of claim in this submission, and the carrier has no knowledge of claim for any other identifiable days. The expression "and subsequent days" is too indefinite and obscure to warrant consideration. Awards of the Board dismissing portions of claims so expressed have been too numerous to require citations here. In addition, the claimant has been eating all meals served in outfit cars subsequent to the time the instant claim for specified dates was filed.

In conclusion the carrier avers:

1. Niles willingly accepted the conditions pertaining to boarding cars, out of which this controversy arose, when employed March 18, 1953.

2. Check-out privileges, as contained in letter of instructions issued by General Superintendent Communications H. H. Hasselbacher October 2, 1950 and previously quoted, have been in effect since sometime prior to 1923 as evidenced by Chief Lineman W. G. Bushman's letter of March 7, 1950.

3. If, as the carrier contends, Niles of his volition, breached the long existing individual contract of employment, to which he and the respondent carrier were the parties, he cannot now seek damages because of a condition entirely attributable to his own action. In this connection, see carrier's Exhibit No. 1, in which Niles has withdrawn the claim and withdrawn authority for the petitioning organization to handle the claim further.

In view of the above and foregoing, this claim must be denied.

FINDINGS: The Second 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 question for our determination in the instant case is whether or not the carrier has the right to require a lineman to pay for three meals per day when a boarding car is provided even though the lineman may choose to eat fewer than the three meals on any given day or days.

The record indicates that the claimant in this case was notified, prior to entering into the employe-employer relationship with the carrier, of the requirement to eat, or pay for, three meals per day when a boarding car is provided construction gangs at isolated points where eating facilities are not available.

The record further reveals that on this property it is considered mandatory for a cook car to be provided an outfit when at isolated points where eating facilities are inadequate.

It is our opinion that in consideration of the fact that prospective employes are informed of the boarding car requirements before they enter into the employe-employer relationship, hinged with the fact that such has been the practice for many years—is reasonable in its purpose in light of the fact that the carrier must provide eating facilities in certain instances. To permit the employes to have the option of not eating certain meals or

to choose to eat no meals in the boarding car would certainly be economically unfeasible.

We are of the opinion that the requirement made by the carrier was reasonable and not in violation of the existing agreement between the organization and the carrier.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 13th day of December, 1955.