

Award No. 2547

Docket No. 2305

2-LI-EW-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO 156, RAILWAY EMPLOYES'
DEPARTMENT A. F. of L. (Electrical Workers)**

LONG ISLAND RAIL ROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

That Substation Operator (Electrician) Theodore Pracht is entitled to and should be granted a refund of \$118.00 which he was required to pay for transportation on the Atlantic Coast Line Railroad.

EMPLOYES' STATEMENT OF FACTS: Electrician T. Pracht (hereinafter referred to as the claimant) requested and was granted trip passes for he and his wife from New York to Florida.

These passes were issued dated December 1, 1954.

He left on the trip (his vacation) January 15, 1955. The passes issued December 1, 1954.

When he presented his passes from Richmond, Va., to Jacksonville, Fla., on the Atlantic Coast Line they refused to accept them as transportation and he was compelled to pay fare for himself and wife, amounting to \$118.00.

In a letter dated April 29, 1955 from the Atlantic Coast Line to Mr. Weiss, passenger traffic manager, Long Island Rail Road, was stated:

"Inasmuch as the Long Island Rail Road and Coast Line were not interchanging at the time this trip was made, I am sorry to say that it would not be consistent to make refund in this case."

The dispute was handled with carrier officials designated to handle such affairs.

The agreement effective July 1, 1949, as subsequently amended, is controlling.

On May 9, 1955, the manager of personnel denied the aforesaid claim. A true copy of the manager of personnel's letter of May 9, 1955 is submitted herewith and identified as carrier's Exhibit D.

POSITION OF CARRIER: At the outset the carrier desires to point out that your Honorable Board has no jurisdiction in the aforesaid dispute for the reason that it is not a grievance falling within the scope of Section 3 (i) of the Railway Labor Act, as amended, in that said alleged grievance is not a violation, misinterpretation or misapplication of the agreement between this carrier and the International Brotherhood of Electrical Workers. Under said Section 3 (i), the National Railroad Adjustment Board has jurisdiction only in disputes arising out of a violation, misinterpretation or misapplication of an agreement between a carrier and its employees concerning rates of pay, rules or working conditions.

The granting of free passes to employees is not a working condition nor a matter collectively bargained for but is inherently a prerogative reserved to management. Thus, the instant dispute is not properly before your Honorable Board. See Award 15130 (Douglass), First Division, National Railroad Adjustment Board.

Further, we wish to respectfully call to the attention of your Honorable Board that the rules and working conditions agreement in effect on The Long Island Rail Road contains no rule relative to pass privileges and, accordingly, there is no contractual obligation on the part of the carrier to refund any monies paid out by an employee for rail transportation.

The various Divisions of the National Railroad Adjustment Board have previously held that it is not their function to interfere with the administration of privileges which are based solely on the liberality of the carrier. See Award 4193 (Carter), Third Division, National Railroad Adjustment Board.

The carrier also desires to bring to the attention of your Honorable Board that the action of the Atlantic Coast Line Railroad in refusing to honor the free transportation presented by Mr. Pracht was a matter beyond the control of this carrier and, therefore, this carrier in no way assumes any responsibility for such action.

In addition, neither the claimant nor the organization has produced a receipt from the Atlantic Coast Line Railroad showing that transportation was purchased by the claimant as alleged.

To summarize, the carrier has shown that:

1. Your Honorable Board is without jurisdiction in this dispute since the subject matter thereof is outside the scope of the Railway Labor Act, as amended.
2. The granting of free passes to employees is a matter subject to the liberality of management and is not a working condition nor a matter collectively bargained for.
3. The refusal of the Atlantic Coast Line Railroad to accept claimant's free transportation is not the responsibility of this carrier.

For the reasons outlined above, this claim should be dismissed.

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

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 claimant, an electrician in the employ of the carrier, requested and was granted free trip passes for he and his wife from New York to Florida. The passes were issued December 1, 1954 and he left on the trip, his vacation, on January 15, 1955. He states that the Atlantic Coast Line conductor would not honor the passes from Richmond, Virginia to Jacksonville, Florida and that he had to pay fare for himself and wife in the total amount of \$118.00. At the time the passes were presented for use the Atlantic Coast Line and Long Island Rail Road were not interchanging free use of passes. Subsequently, the Long Island Rail Road requested refund on behalf of the claimant but the Atlantic Coast Line declined. The organization requests this Board to order the carrier to reimburse the claimant for \$118.00.

The record discloses that the granting of free passes by the carrier is a gratuity and not a condition of employment. It is not mentioned in the Agreement between the parties, and it is a matter not collectively bargained for. The issuing Carrier is not responsible for the policies of a foreign line, and the recipient of a pass accepts assuming the risk that the foreign line may not honor that part of the gratuity. This Board is without authority to order generosity or gratuities.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 8th day of July, 1957.