

Award Number 267
Docket Number PC-103

NATIONAL RAILROAD ADJUSTMENT BOARD

Third Division

Lloyd K. Garrison, Referee

PARTIES TO DISPUTE:

**THE ORDER OF SLEEPING CAR CONDUCTORS
THE PULLMAN COMPANY**

DISPUTE.—

"The above-named conductor (J. H. Kenworthy) Philadelphia District, claims additional pay for service performed in the month of July 1932 while working extra."

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

The Carrier and the 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.

As a result of a deadlock, Lloyd K. Garrison was called in as Referee to sit with the Division as a member thereof.

There is in evidence The Pullman Company Rules Governing Working Conditions for Conductors effective December 16, 1923, and Mediation Agreement of March 1, 1928.

As will be seen, Mr. Kenworthy's claim contains no details and is for no specific amount. Claims ought not to be presented to the Board in such form. However, in the revised submission of the claim to the Board, there appeared a statement of the number of hours with respect to which it is alleged that pay should be made, to wit, twenty-one hours and twenty-five minutes. Thus the claim may properly be considered as for an exact amount.

It may still be objected that the claim does not enumerate the specific items of short payment which go to make up the twenty-one hours and twenty-five minutes. This omission, as a matter of form, may properly be criticised. However, before its submission to our Board, the claim was submitted to the Conductors' Board of Adjustment and the itemization of the claim appears in those proceedings and is made a part of the record before us. Thus the Board has sufficient information before it upon which to analyze the claim, and should proceed to do so unless the form of the presentation has prejudiced the rights of the carrier. But we think that the carrier has not been misled because the carrier's own submission in this case contains an item-by-item description of the claim. The following breakdown and analysis of the claim is taken in every detail from the carrier's own submission, to which we have added a column indicating the amount of each particular claim which we think is properly allowable. For convenience of identification in the discussion of the claims, which will appear hereinafter, we have divided the claims into "A", "B", "C", etc., corresponding to the groupings made by the carrier in its discussion of these claims.

	Carrier paid	Total claim	Short claim	Should allow
CLAIM A				
July 1. Left Philadelphia 3:30 p. m. Special Service.	1½ days.....	1½ days.....		
July 2. Arr. Waterville 7:30 a. m.				
July 2. Left Waterville 9:00 a. m. Deadhead with equipment.	2 days.....	2 days.....		
July 3. Arr. New York 12:30 p. m.				
July 3. Left New York 1:00 p. m. On pass.		2 hrs.	2 hrs.	2 hrs.
July 3. Arr. Philadelphia 3:00 p. m.				
CLAIM B				
July 5. Left Philadelphia 12:01 a. m. (Line 2165.)	Round Trip ½ day (based on fact that 2 round trips are 1 day's service).	½ day should be ¾, or 2 hours.		
July 5. Arr. New York 2:10 a. m.				
July 5. Left New York 2:15 a. m. Deadhead on pass.				
July 5. Arr. Philadelphia 4:45 a. m.		2 hrs. 30 min.	2 hrs. 30 min.	30 min.
CLAIM C				
July 8. Left Philadelphia 8:40 a. m. (Line 6325.)	½ day.....	½ day.....		
July 8. Arr. Washington 12:30 p. m.				
July 8. Left Washington 1:00 p. m. Deadhead on pass.	½ day.....	3 hrs.	Deduct 1 hr.	Deduct 1 hr.
July 8. Arr. Philadelphia 4:00 p. m.				
CLAIM D				
July 16. Left Philadelphia 4:30 p. m. (Line 2489.)	3 days.....	Originally 2 days. Later (by Grievance Committee) 3 days.		
July 17. Arr. Detroit 8:45 a. m.				
July 17. Left Detroit 5:15 p. m. Special service.				
July 18. Arr. Philadelphia 8:15 a. m.				
CLAIM E				
July 21. Left Philadelphia 12:35 p. m. Deadhead on Pass.		3 hrs.		
July 21. Arr. Harrisburg 3:35 p. m.				
July 21. Held for service 3:35 p. m. Midnight.	3 days.....	(1 day..... 1 day.....)		
July 22. Held for service Midnight 4:30 p. m.				
July 22. Left Harrisburg 4:30 p. m. Deadhead with equipment.		(2 hrs. 15 min. (Should be 2 hr.))		
July 22. Arr. Mt. Gretna 6:30 p. m.				
July 22. Left Mt. Gretna 9:00 p. m. Special service.		1 day.....		
July 23. Arr. Erie 11:00 a. m.				
July 23. Left Erie 2:10 p. m. Deadhead with equipment.		4 hr. 45 min.		
July 23. Arr. Pittsburgh 7:00 p. m.				
July 23. Left Pittsburgh 10:30 p. m. Deadhead on pass.		7 hr. 55 min.		
July 24. Arr. Philadelphia 6:30 a. m.				
	3 days.	3 days 17 hr. 55 min.	17 hr. 55 min. (Deduct 15 min. from above.)	17 hr. 40 min.
CLAIM F				
July 29. Left Philadelphia 7:30 a. m. Deadhead on pass.		1 day.....		
July 29. Arr. Tobyhanna 4:15 p. m.				
July 29. Left Tobyhanna 4:15 p. m. Special service.	2 days.....	1 day.....		
July 30. Arr. Shady Side (Pittsburgh) 5:50 a. m.				
July 30. Held for service 5:50 a. m. to 8:45 p. m.		1 day held for service (credited by carrier).	1 day.....	1 day.

	Carrier paid	Total claim	Short claim	Should allow
CLAIM G				
July 30. Left Pittsburgh 8:45 p. m. (Line 2358).	1 day-----	{ 1 day (originally); 1 day (entered as layover; later claimed as held for service.) }	-----	-----
July 31. Arr. Atlantic City 8:20 a. m.				
July 31. Held Atlantic City 8:20 a. m. to 8:30 p. m.	"Compensated for on payrolls for Aug. 1."	½ day-----	1½ days-----	-----
July 31. Left Atlantic City 8:30 p. m. (Line 6343.)				
July 31. Midnight en route for Washington.	*3 days, later paid for by carrier, has been de- ducted from the two adjoining totals.	-----	*2 days 2 hrs. 25 mins.	*3 hrs. 10 mins.

On the basis of the principles already established in Docket PC-105, Award No. 259, of this Division, the claim should be sustained subject to the following adjustment:

In Claim "B" above, only 30 minutes should be allowed. For the trip Philadelphia to New York and return the carrier allowed half a day on the trip or day's service basis. Since the return journey from New York to Philadelphia was deadhead on a pass, it would not fall under Rule 3, and therefore should have been paid on the hourly basis and not the day's service basis. Only the trip in line from Philadelphia to New York should have been paid on the day's service basis. That would have resulted in an allowance of a quarter of a day or two hours. The conductor would then have been entitled to two hours and 30 minutes on the hourly basis for the deadhead trip from New York to Philadelphia. The total would be four hours and 30 minutes. The conductor was paid for four hours and therefore is entitled to only 30 minutes.

Claim "C" shows an over-payment of 1 hour, which should be deducted from the claim.

In Claim "E" the item of two hours and 15 minutes for deadhead with equipment, from Harrisburg to Mt. Gretna on July 22, should be for two hours, according to the elapsed time as shown in the record. The remaining amounts asked for under Claim "E" are accurate so that Claim "E" should be allowed less 15 minutes.

In Claim "G" the conductor was allowed one day on the trip service basis under Rule 3 for the line service between Pittsburgh-Atlantic City-Washington, plus additional but unstated compensation appearing on the August pay roll. The conductor claimed a half day for that portion of the trip which was paid for in August, and therefore this half day claim should be eliminated. There remains a claim for an additional day held for service in Atlantic City from the morning to the evening of the 31st. The entry was originally made by the conductor on his time sheet as a layover, and we are unable to conclude from the record to what extent, if any, a claim for held for service would be proper. Because of the fact that a portion of the trip was paid for in August and because the amount so paid in August does not appear in the record, we do not know what total allowance was made for the Pittsburgh-Atlantic City-Washington run or to what extent, if any, such payment included a layover in Atlantic City.

After making these deductions from the conductor's claim, the total to which he is entitled, as shown above, is three hours and ten minutes over and above what he was paid.

AWARD

Conductor Kenworthy is entitled to additional pay for service performed in the month of July 1932 to the extent of three hours and ten minutes.

By Order of Third Division:

NATIONAL RAILROAD ADJUSTMENT BOARD.

Attest:

H. A. JOHNSON, Secretary.

Dated at Chicago, Ill., this 9th day of May 1936.