

NATIONAL RAILROAD ADJUSTMENT BOARD
Third Division

Arthur M. Millard, Referee

PARTIES TO DISPUTE:

ORDER OF SLEEPING CAR CONDUCTORS
THE PULLMAN COMPANY

STATEMENT OF CLAIM.—

"Conductor W. L. Wier, Denver District, asks for the equivalent of the wages earned by Conductor R. K. Taft who was recalled to service ahead of him, both being on furlough. The wages in question are those earned by Taft from date of recall and transfer to the date Wier was recalled for service."

STATEMENT OF FACTS.—In their ex parte submission the employees stated the facts as follows:

"Conductor Wier has seniority in the Denver District dating from March 30, 1926. He was furloughed September 18, 1931. On January 26, 1935, he learned that Conductor R. K. Taft, who was junior to him on the seniority roster, had been recalled to service sometime in the previous month and temporarily transferred to Miami, Florida, for work. This transfer was later made permanent. Other extra and furloughed conductors senior to Taft elected not to become parties to this grievance, which eliminates them from consideration in this case. Wier is the only conductor senior to Taft who would have accepted the transfer. He was not given the refusal of it. Rule 8 of the existing agreement between The Pullman Company and its conductors is shown in Exhibit 'B.' Under the terms of this rule it is mandatory on the company to recall conductors to work in the order of their seniority. There were fifteen conductors, including Wier, who were senior to Taft at the time he was recalled to service."

"RULE 8

"In reducing forces, seniority will prevail in selecting those to be retained in the service. When forces are increased, those who were laid off or furloughed will be returned to service in the order of their seniority, provided they have filed their names and addresses with the designated official for that purpose. Failure to report for duty within seven days from the date of notification will terminate this privilege unless an explanation satisfactory to the management is given."

In the carrier's ex parte statement of facts, W. L. Wier's service record is shown as follows:

- 6-23-24 Employed as conductor, Omaha District.
- 11-15-24 Temporarily transferred to Washington, D. C.
- 5- 1-25 Transferred to Omaha District.
- 11- 1-25 Furloughed.
- 3-30-26 Permanent transfer to Denver.
- Eight furloughs between 11-3-27 and 6-18-36.

In accordance with practice then in effect, deduction of 1 year 23 days was made from Wier's seniority covering periods of furloughs between 3-30-26 and 5-1-32. Wier's seniority in Denver District was 3-30-26, less 1 year 23 days. During the past four years his roster seniority has been shown as 5-30-26, less 1 year 23 days, and it is not clear why the date was changed from March 30 to May 30; however, no protest has been made by Wier.

Hearings were accorded in the usual manner, up to and including the chief operating officer of the carrier, as provided for by the agreement.

That conductor Taft was not returned to service in the Denver District, but on request, was transferred, first temporarily and then permanently to the Miami District and that such action was not in violation of Rule 8, but was in accord with practice of many years.

Regarding temporary transfer in 1930-1931 of certain Denver District conductors to the Pennsylvania Terminal District, carrier states, in view of the fact that deductions were then made from conductors' seniority while on furlough and the fact that a large number of conductors were required for temporary service in the Pennsylvania Terminal District, it was decided to offer the furloughed conductors of the Denver District the opportunity of accepting or declining temporary work in that district, for the reason that the Denver conductors were men of comparatively long service and their work had been seriously curtailed by the depression. There was no rule requiring transfer of these individuals and the action was taken as a means of offering work for men whose earnings had been seriously affected.

That, for years, on request and for various reasons, transfers have been made from one district to another if and when the applicant's service could be utilized and that seniority has not been considered a factor in such transfers.

OPINION OF THE BOARD.—The rules governing the working conditions for conductors of the Pullman Company and which became effective December 16, 1923, were operative at the time of this dispute and clearly define in rule 8 the manner in which reductions in force and recall to service are to be determined; while rule 7 (a) specifies the location or the district in which the seniority of an employe shall apply. There has been no question of the seniority of conductor Wier over that of conductor Taft in the Denver district, this having been established by both employes and carrier in favor of conductor Wier. In the application of rule 8 of the agreement governing working conditions for conductors of the Pullman Company, Conductor Wier, holding seniority in the Denver district, was entitled to the refusal of any employment that was offered through that district to which his seniority gave him preference. By the terms of rule 7 (a) Conductor Wier, who held seniority over Conductor Taft in the Denver district, held prior claim by seniority rights to recalls made in that district. By the application of these rules, where a shortage of conductors exists in one district and that district elects to call on a second district for a conductor, any calls made by the second district to its conductors on furlough and subject to recall would be subject to the seniority rights as specified in rule 7 (a), and would apply as though the service was to be rendered in the second district or the district through which the recall of the conductor was made.

FINDINGS.—The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon and upon the whole record and all the evidence, finds and holds:

That the carrier and employes involved in this dispute are respectively carrier and employes 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 Conductor Wier, who held seniority in the Denver District, was entitled to seniority in the recall that was made.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: H. A. JOHNSON
Secretary

Dated at Chicago, Illinois this 15th day of April, 1937.