

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Dozier A. DeVane, Referee

PARTIES TO DISPUTE:

ORDER OF SLEEPING CAR CONDUCTORS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: "Conductor R. W. Carter, Baltimore District, claims violation of Rule 33 in failing to bulletin Line 2114 when changed to operate with 4 men and a relief instead of 5 men as previously, the change occurring on or about May 3, 1938. He asks additional compensation for the loss of home layover from the time the change was made, amounting to 24 hours every other trip."

EMPLOYES' STATEMENT OF FACTS: "Line 2114, Baltimore & Ohio Trains 9-10-7, was operating with 5 conductors until May 3, 1938, when it was changed to operate with 4 conductors with a relief of 24 hours following completion of two cycles. Rule 33, Exhibit 'A,' requires rebulletining runs when any alteration is made changing the total home layover in excess of 10 per cent. This line was not re-bulletined when the change occurred, the Management contending that it did not change the total home layover 10 per cent. A tabulation of the Management's figures purporting to show less than a 10 per cent change is shown in Exhibit 'B.' Exhibit 'C' gives the employee's tabulation, showing more than a 10 per cent change. Both tabulations use the 30-day basis. The difference between them is that the Management shows the alteration in the line on the basis of averages, while the employees show the change by actual schedules before and after the alteration in the line. The schedule of actual operations of conductors shows that the change in total home layovers exceeds 14 per cent."

"This grievance has been progressed under the provisions of the Agreement between The Pullman Company and Conductors in the Service of The Pullman Company. Decision of the highest officer designated for that purpose is shown in Exhibit 'D'."

CARRIER'S STATEMENT OF FACTS: "Conductor R. W. Carter was regularly assigned during April and May, 1938, to operate in Lines No. 2114 and No. 2107 on B. & O. trains No. 9 and Nos. 10-7 between Chicago and Jersey City with Baltimore as the home station. On April 24, 1938, the railroad company reduced the running time of these three trains, and the five Pullman conductors of the Baltimore District, already assigned thereto operated temporarily (from April 24th to May 3rd, 1938) on the following schedule:

REPORTED FOR DUTY

Line	Station	Hour
2114	Baltimore	3:00 P. M. (ET)
2107	Chicago	9:30 A. M. (CT)
2107	Jer. City	6:25 P. M. (ET)

"In a five man assignment on a 30-day period each man is able to perform exactly six round trips and, therefore, each man receives a home layover of 386:00 hours. Because 30 is not evenly divisible by $4\frac{1}{2}$ the four regularly assigned conductors in a four and one-half man run do not perform exactly the same number of trips in a 30-day period; consequently, as will readily be noted from Exhibit 'A,' the amount of their layovers differ. The conductor going out the first day of the 30-day period receives, as the petitioner has said, a total home layover of 330:20 hours for the period, but the conductor going out the second day of the period receives a home layover of 353:00 hours. The conductor departing on the third day of the period accumulates 377:00 hours' home layover, and the man departing on the fourth day acquires 363:20 hours, to project the picture further, a conductor who departs on the first day of a given 30-day period and accumulates 330:20 hours' home layover accumulates 353:00 hours' layover in a succeeding 30-day period, and similarly the layovers of the other three conductors vary. Since the total home layovers of the four men regularly assigned in a four and one-half man assignment differ so widely in a 30-day period, it is unreasonable, incomplete, and misleading, to show any one total as representative of the whole. To be accurate the average total home layover for all four of the regularly assigned conductors must be ascertained. In a five man assignment this average is 386:00 hours. In a four and one-half man assignment the average for the four men regularly assigned is 355:21 hours.

"The petitioner's claim for 'additional compensation for the loss of home layover from the time the change was made, amounting to 24 hours every other trip,' is so ambiguous as to be incomprehensible. At no time in conferences with the management has any basis for such a claim been established. No rule has been cited to support this claim. As the operation involved is a regular assignment, pay for services performed by a conductor in it could not under any rule be computed on an hourly basis. This pay must be computed on the trip or day basis. Irrespective of its ambiguity, the claim for extra pay merits no consideration. By proving that there was no necessity for re-bulletining the conductor operation on B. & O. trains 9-10-7, effective May 3, 1938, the Company at the same time will have shown the claim for additional compensation to have been without any possible foundation. The figures herewith presented show that when the conductor operation in question was changed from a five to a four and one-half conductor run, the total home layover of the conductors was not changed in excess of ten per cent. Therefore, no rule was violated in not re-bulletining this run on May 3rd, and there can be no foundation for the claim for additional compensation. The claims of Conductor Carter should, consequently, be denied."

OPINION OF BOARD: The question presented in this case arises from the failure of the carrier to bulletin Line 2114 for conductor bids on May 3, 1938, on which date the line was changed to operate with four instead of five conductors.

Both parties rely on Rule 33 of the Agreement which is as follows:

"**RULE 33. Re-bulletining Changed Runs.** Any change of terminals, additions to or reductions from the number of trains in an assignment or alterations of total home layover in excess of ten (10) per cent thereof shall constitute a new run and all positions thereon shall be bulletined as provided in Rule 31."

The employees claim the change in total home layover exceeded 14 per cent while carrier contends the change was less than 10 percent. The question as to which is right is a matter of mathematics.

Prior to the change each conductor received a layover of 64 hours and 20 minutes at Baltimore upon the completion of each round-trip. After the change from five to four conductors the layover was 40 hours and 20 min-

utes following completion of the first round-trip and 64 hours and 20 minutes upon completion of the second round-trip.

Both parties presented charts showing the layovers on the line for thirty days as a test period. Prior to the change six round-trips, including the layovers, were completed within that period. After the change six round-trips, including the layovers, were completed in twenty-seven days. The disagreement as to the percentage of the change in the layovers during the thirty day test period arises out of the use of different factors to adjust the two schedules to a comparable basis.

The difficulty of determining which party, if either, used correct factors to adjust the two schedules to a comparable basis may be avoided by using forty-five days as the test period. During this period nine round-trips, including layovers, were completed prior to the change in schedule and subsequent thereto ten round trips, including layovers, were completed.

Under the old schedule the total hours of layover in the forty-five day period amounted to 579 hours and under the new to 523 hours and 20 minutes. The difference is 55 hours and 40 minutes, which equals 9.6%. The Board, therefore, holds that the change in the total home layovers did not exceed 10% and that it was unnecessary, under Rule 33 of the Agreement, to rebulletin the run when the change in schedule was made on May 3, 1938.

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 the employe involved in this dispute are respectively carrier and employe 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 the carrier in the action complained of in this dispute did not violate the terms of the agreement between the parties.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 9th day of June, 1939.