

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 W. N. Slye, Washington District, claims additional pay for the service performed in April 1938. The shortage amounts to \$14.07."

**EMPLOYES' STATEMENT OF FACTS:** "This grievance has been progressed in the usual manner under the rules in 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 'A.'"

"Slye operated in regular service for the entire first half of the month. The claim of shortage in this period results from paying for the trip from New York to Washington on the 7th at the hourly rate. The conductor arrived in New York too late to take his regular trip back to Washington and was sent back deadhead on pass. He claims this should have been paid for the same as though made in regular turn.

"In the second half of the month Slye was in regular assignment with the exception of the 24th, 25th and 26th, on which days he accumulated 26 hours, 5 minutes. For the trips made in regular service in this half the carrier claims it has paid him 10½ days and carried 2 days forward to the next month. The extra service of 26 hours, 5 minutes, has been paid for."

**CARRIER'S STATEMENT OF FACTS:** "With the 2 exceptions listed immediately below the following schedule, Conductor Slye operated in regular assignment from April 1st to 23rd, 1938, between Washington and New York on this schedule:

(1) Report	Washington	P. R. R. Train No. 136	11:00 A. M.	1st day
Released	New York		3:55 P. M.	" "
Report	New York	P. R. R. Train No. 143	6:55 P. M.	" "
Released	Washington		12:00 Mid.	" "

(One Conductor was required for this run, who was allowed a 24-hour relief after making 2 round trips. 1½ conductors were therefore required to man this run).

On April 3rd, although due to perform service on the above schedule (1) Conductor Slye laid off of his own accord. On April 7th, A. C. L. R. R. train No. 74 arrived at Washington 3:38 hours late, the delay being occasioned by 'slid flat' wheels, engine trouble, and a thrown engine tire. Because of this delay, the connecting train out of Washington—P. R. R. No. 136—on which Conductor Slye operated, did not arrive in New York until 7:40 P. M. Conductor Slye, who was scheduled to leave New York in his regular assignment at 7:30 P. M., was accordingly returned to Washington 'deadhead on pass.'

York to Washington on April 24th on an extra section of P. R. R. Train No. 143. He reported at New York at 6:55 P. M. and was released at Washington at midnight. For this service he was paid 5:05 hrs. On April 25th he returned from New York to Washington as a helper conductor on an extra section of P. R. R. Train No. 103. He reported at New York at 8:50 P. M., April 25th, and was released at Washington at 8:20 A. M., April 26th. Having been released for rest 2:30 hrs., he was credited and paid a net of 9:00 hrs for this trip. These two payments were made according to the originally quoted provision of Rule No. 22, as well as the following parts of that Rule:

'Q-2. Is the work of conductors operating on extra sections of trains and of helper conductors to be classed as "extra" road service?

'A-2. Yes.'

"It is of interest here to state that, on his time sheets for the second half of April, Conductor Slye himself entered the service he performed between 11:00 A. M., April 24th, and 8:20 A. M., April 26th, as extra service. There are attached, as Exhibit 'A,' copies of time sheets which show all of the entries made by Slye during April, except the unnecessary information as to expiration of layover periods. We have also shown in the column headed 'Regular Assignment,' the days paid him for regular assignments. Hours paid him for extra service are shown in the column headed 'Extra Service,' and 'deadhead on Pass' hours paid for are shown in the column headed 'D. H. on Pass.'

"As set forth in the 'Statement of Facts,' according to schedule Slye should have entered his regular relief assignment (in schedules 2 and 3) on April 26th, but instead he elected not to enter the assignment until April 27th, on which date he made a round trip between Washington and New York. He then took the regularly scheduled relief of this assignment between 1:30 P. M., April 28th, and 1:30 P. M., April 29th, though he had made but one round trip between Washington and New York. The full relief applied only after two round trips had been performed.

"Conductor Slye was paid in full, under Rules No. 21 and No. 22, for all services performed in April. When working in regular assignment, covered by bulletined schedule, Slye was paid on the trip (number of men in the assignment, etc.) basis. When working in extra assignment, or traveling 'deadhead on pass,' Slye was paid on the hourly basis. Though Slye voluntarily laid off a round trip on April 3rd, he contends he should be compensated under Rule No. 20 for services performed during the first half of April. Because he laid off for a round trip Rule No. 20 cannot apply. Though Slye did not work throughout the second half of April in regular assignments, and though he took full relief days when they had not been earned, he claims pay for 15½ days for the second half of April. He fails to show the bases for this claim or for the sum of \$14.07 appearing in the 'Statement of Claim.'

"Conductor Slye has been fully and properly compensated for all services performed in April. His claim for additional pay is without merit and should be denied."

**OPINION OF BOARD:** The question presented by this claim is whether carrier properly classified and paid Conductor Slye for the month of April, 1938. The record shows that Conductor Slye operated a regular assignment between Washington, D. C. and New York City during April on a daily round trip schedule, leaving Washington around 11 A. M. and leaving New York around 7:00 P. M. on the same day. His hours of service were from 11 A. M. to 12 Midnight, with some time out in New York between arrival and departure of trains. On April 7 the employe performed service on his regular assignment from Washington to New York, but due to the lateness of the arrival of his train he was unable to handle the return trip. Carrier returned him deadhead to Washington, so that he would be available for his regular run on the following day.

The question presented is whether the employe is entitled to compensation for the round trip under Rule 21, or whether Rule 22 is applicable to the return trip from New York to Washington. The two rules are set out below:

**Rule 21**

**Regular Assignments—Part Time.**

Conductors working part time on regular assignments shall be paid for a round trip the number of days there are conductors in the assignment as covered by bulletin schedule; less than a round trip shall be paid for proportionately. Time in excess of an average of eight (8) hours a day for the total days paid for under this rule shall be paid at the hourly rate.

**Rule 22**

**Extra Service**

Conductors shall be paid at their respective established hourly rates for all hours credited each month for extra road service, deadhead on cars, deadhead on pass, extended special tours, station duty and all other non-road service. Time credited in excess of two hundred seventy (270) hours each month shall be paid for at the rate of time and one-half.

There is no question as to this employe being on a regular assignment at the time. Rule 22 is clearly not applicable in cases where the employe is in regular service fulfilling a regular assignment, as admittedly this employe was doing on the day in question. He should have been compensated for the trip in accordance with Rule 21 of the agreement.

The remainder of the claim—for two days' service on April 29 and 30—is not in dispute. The carrier claims, however, that the employe was paid in May for these two days' service, while the employe denies he has ever received pay for this two days' service. The payroll, which alone will disclose whether payment has been made, was not made a part of the record in this case, and it is therefore necessary to remand this part of the claim to the parties for disposition.

**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 Conductor Slye is entitled to \$1.33 additional compensation for the round trip on April 7, 1938; and whether he has been paid the \$11.91 for the trips performed on April 29 and 30, 1938, should be remanded to the parties for determination and adjustment.

**AWARD**

Claim for \$1.33 sustained and claim for \$11.91 remanded to the parties for adjustment.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of Third Division

ATTEST: H. A. Johnson  
Secretary

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