

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Wiley W. Mills, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: "For and in behalf of George Brewer, porter now employed by the Pullman Company and operating out of the Pennsylvania Terminal District of New York City, because the Pullman Company did on March 29, 1939 deny the claim of Porter Brewer to be paid for four and one-half days, which the Brotherhood of Sleeping Car Porters maintains he is entitled to by virtue of Award number 800 issued by your honorable Board, January 20, 1939."

EMPLOYEES' STATEMENT OF FACTS: "Your petitioner, the Brotherhood of Sleeping Car Porters, respectfully submits that it is the duly designated and authorized representative of all porters, attendants and maids in the service of the Pullman Company, under provisions of the Railway Labor Act.

"Your petitioner further represents that in such capacity, it is the duly authorized representative of George Brewer who is now and has been for a number of years past employed for the Pullman Company as porter operating out of the Pennsylvania Terminal District.

"Your petitioner further represents that on March 15, 1939 it did initiate a claim for and in behalf of George Brewer, as is provided for under the regulations of the contract now in force between the Pullman Company and its porters, attendants and maids, involving pay for four and one-half days which the petitioner maintains was due and payable to George Brewer by virtue of a decision issued by the National Railroad Adjustment Board, Third Division, Award number 800, Docket PM-848.

"Your petitioner further represents that District Superintendent Schwotzer of the Pennsylvania Terminal District of the Pullman Company, denied the claim of the petitioner in the instant case, and that the claim was appealed through the regular channels up to and including Assistant to the Vice President B. H. Vroman who sustained the decisions of Superintendents Schwotzer and Snoddy.

"Your petitioner further sets forth that it did on June 9, 1939 file notice with the National Railroad Adjustment Board, Third Division, of its intention to file notice with said Board an ex parte submission for and in behalf of Porter George Brewer in the instant case, and that copy of said notice was on same day and date served upon Mr. B. H. Vroman, Assistant to the Vice President of the Pullman Company."

OPINION OF BOARD: The claim herein reads:

"For and in behalf of George Brewer, porter now employed by The Pullman Company and operating out of the Pennsylvania Terminal District of New York City, because The Pullman Company did on March 29, 1939 deny the claim of Porter Brewer to be paid for four and one-half days, which the Brotherhood of Sleeping Car Porters maintains he is entitled to by virtue of Award Number 800 issued by your honorable Board, January 20, 1939."

There is really no basis for this claim. Its very language shows that the claim proper was disposed of by the Board in the Award Number 800, rendered in Chicago, January 20, 1939.

The language of the last paragraph in the Award Number 800 is too clear and plain to admit of construction and furnishes its own interpretation. It requires no other. This paragraph reads:

"The evidence of record discloses no grounds for disturbing the action of the Carrier, except Brewer's record should be corrected to show actual suspension of eight days. The facts and circumstances do not justify claim for compensation for time lost and it should be denied."

The first two paragraphs show that Porter George Brewer, by failing to report to the superintendent as directed, was himself to blame for more time loss than he is now seeking to recover. They read:

"Porter Brewer was removed from his car at initial terminal, night of June 8, 1938, by Night Agent on account of not being in condition for service and told to report to District Superintendent before again going out.

"Failing to report as directed, Porter Brewer was instructed by letter dated June 14, 1938 to report to the District Superintendent, June 16. He reported June 16 and was withheld from service until June 21, 1938."

Again we say that the language in Award Number 800 is too clear and plain to justify an attempt to construe it and it requires no interpretation. In this record we find no additional facts not connected with the Award itself and the Board was fully advised when that Award was rendered.

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 there is nothing in the record to sustain the claim of the employe.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 23rd day of January, 1940.