

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

**DINING CAR COOKS AND WAITERS INDUSTRIAL
ASSOCIATION**

MISSOURI-KANSAS-TEXAS LINES

STATEMENT OF CLAIM: "Claim of the System Committee of the Dining Car Cooks and Waiters Industrial Association, that the carrier is required under the provisions of Article No. Eleven (11) of the agreement extant between the respective parties to maintain and provide lodging for its dining car crews, when away from home terminals, commensurate with the lodging that was provided on the effective date of the agreement."

EMPLOYES' STATEMENT OF FACTS: "Article No. Eleven (11) of the agreement extant between the respective parties reads:

"The present practice of furnishing meals while on duty and lodging while on duty away from Home Terminals, will be continued."

On February 1, 1927, the following arrangement was in effect at Dallas, Texas, in the matter of furnishing lodging to employes who were required to lay over at that point as exemplified by an affidavit executed by Mrs. L. B. Benson, reading:

'Dallas, Texas, February 7, 1938

Mr. Joseph Nofles,
General Chairman, Cooks & Waiters Ind. Assn.,
St. Louis, Missouri.

Dear Sir:

Prior to 1926 and during 1927, I did furnish two rooms for the cooks and waiters employed by the Missouri-Kansas-Texas Railroad, the rooms were engaged by the late Mr. C. O. Johnson, then Superintendent of dining cars service, as quarters for the cooks and waiters who laid over in Dallas.

Ice water, heat, bath, single and double beds were furnished to the crews, one room was for the cooks and one was for the waiters. I received my pay from the Missouri-Kansas-Texas Railroad.

In testimony of which witness my signature this 7th day of February, 1938.

(Signed) Mrs. L. B. Benson

The State of Texas, County of Dallas:

Before me, the undersigned authority, on this day personally appeared Mrs. L. B. Benson known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me

"There are attached Nos. 1-A, 2-A, 3-A and 4-A, being copies of an exchange of telegrams between the petitioner and the carrier.

"It will be seen that what the petitioner now seeks is not an adjudication of this claim (it has been met by the action of the carrier in providing the lodging, which the petitioner has admitted fulfills the carrier's obligation) but the writing of what he calls an 'interpretation' which in effect is nothing more than a rewriting of a portion of a certain article of the agreement. This is something with which we do not think this Board can legitimately concern itself.

"The Board's attention is directed to the bottom of page 7 of the petitioner's submission—Here he says—

' . . . when employes were released from service when away from home terminals prior to 9:00 P. M. and were not required to report for work until or after 6:30 A. M., that they arranged for lodging away from the cars. THIS IS ALL THAT THE EMPLOYES ARE INSISTING ON IN THIS ACTION.' (Emphasis our's.)

"This is just what the carrier did by its action in providing the facilities at Denison effective October 1, 1939: which the petitioner has stated meets the requirements of the schedule and of the instant claim.

"From this it can be seen just what the claim was originally intended for. Now the petitioner seeks some 'interpretation' of the agreement without a basis of any particular action of the carrier; or actual condition prevailing.

"The carrier agrees with what is stated in the foregoing quotation from the petitioner's submission; i. e., that when employes are relieved at away from home terminals prior to 9:00 P. M. and are not required to report for work until or after the next 6:30 A. M., that they will be provided with lodging away from the cars. The carrier agrees that this is what the working agreement requires; it is what is involved in the statement of the claim; and the carrier has met the claim."

OPINION OF BOARD: Claim involves interpretation of that part of Article No. 11 of the agreement relating to "lodging." Article No. 11, Meals, Lodging, etc., reads:

"The present practice of furnishing meals while on duty and lodging while on duty away from Home Terminals, will be continued."

The Employes, in their submission, interpret the Article, as follows:

"* * * when employes were released from service when away from home terminals, prior to 9:00 P. M., and were not required to report for work until or after 6:30 A. M., that they arranged for lodging away from the cars. This is all that the employes are insisting upon in this action."

The Carrier, in its submission, places the following interpretation on the Article:

"The carrier agrees with what is stated in the foregoing quotation from the petitioner's submission; i. e., that when employes are relieved at away from home terminals prior to 9:00 P. M. and are not required to report for work until or after the next 6:30 A. M., that they will be provided with lodging away from the cars. The carrier agrees that this is what the working agreement requires; it is what is involved in the statement of the claim; * * *."

The Board submits that the interpretations placed on Article No. 11, insofar as it relates to "lodging," are not in conflict.

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 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 the parties are not in disagreement as to the application of or meaning and intent of Article No. 11, so far as it relates to "lodging."

AWARD

Claim to be disposed of in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 26th day of January, 1940.