

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

THE BROTHERHOOD OF SLEEPING CAR PORTERS
THE PULLMAN COMPANY

STATEMENT OF CLAIM: "For and in behalf of Porter C. B. Blackburn who is now, and for a number of years past has been, employed by the Pullman Company operating out of the Chicago Eastern District, because the Pullman Company did deny the claim initiated by the Brotherhood of Sleeping Car Porters for and in behalf of Porter Blackburn for the sum of \$23.48, claim for such sum being based upon a violation of Rule 46 of the contract now in force between the Pullman Company and its porters, attendants and maids, because the Management failed to assign Porter Blackburn to the run to which he was entitled on December 5, 1938 under the provisions of said rule; and by virtue of not being signed out in accordance with Rule 46 of the above-mentioned contract, Porter Blackburn lost time, the pay for which amounted to the sum of \$23.48; and further, for Porter Blackburn to be paid the above-mentioned sum in settlement of the claim."

EMPLOYES' STATEMENT OF FACTS: "Your petitioner, the Brotherhood of Sleeping Car Porters, respectfully represents that it is the duly authorized representative of all porters, attendants and maids in the employ of the Pullman Company under the provisions of the Railway Labor Act. Your petitioner further sets forth that in such capacity it is duly authorized to represent Porter Blackburn in the claim in the instant case.

"Your petitioner further sets forth that on December 5, 1938 about 3:45 P. M., Porter Blackburn reported to the signout office for an assignment and found that Porter J. Wilder, whose layover expired twenty four hours later than Porter Blackburn's, had been signed out ahead of him on Line 39, Chicago to Oakland, California.

"Your petitioner further sets forth that in inquiring of the signout man, Blackburn was told that Wilder was due to be signed out ahead of him; and Blackburn was at that time signed out on another line to Indianapolis, which line Blackburn went out on as instructed.

"Your petitioner sets forth that Porter Blackburn was due to be signed out before Porter Wilder and that because he (Blackburn) was not properly signed out, lost time by virtue thereof; and accordingly, a claim for pay for this time was filed by the petitioner for and in behalf of Porter Blackburn for the difference in the amount of pay that he earned during the month of December, 1938 and the amount that he would have earned had he been properly signed out, or the sum of \$23.48, said claim being filed on May 17, 1939.

"The petitioner further sets forth that said claim was denied by Superintendent Ruddy under date of Aug. 8, 1939. Appeals were made through the regular channels up to and including Mr. B. H. Vroman, Assistant to

"Because this claim has not been handled on appeal by either the petitioner or the Company in accordance with the provisions of Rule 57, it is impossible to state definitely that all data presented herewith in support of this Company's position have heretofore been presented to the petitioner's representative and have been made a part of the record. It is possible that the petitioner had not heretofore been made acquainted with the contents of all of the statements furnished herewith as exhibits." (Exhibits not included.)

OPINION OF BOARD: If on December 5, 1938 Blackburn had been assigned to the temporary vacancy in Line 279, Chicago-Indianapolis, prior to the time (4:00 P. M.) that Porter Evans reported ill and unable to fill his assignment in Line 39, Chicago to Oakland, night of December 5, 1938, then the assignment of Wilder to the Evans vacancy was proper and Blackburn's claim would be without merit.

However, if Blackburn had not been assigned to Line 279, Chicago-Indianapolis, prior to Wilder's assignment to Line 39, Chicago-Oakland, then under Rule 46, Blackburn, who stood to go out ahead of Wilder, was entitled to the vacancy in Line 39.

The evidence of record does not conclusively show Blackburn was assigned to Line 279 prior to the assignment of Wilder to the temporary vacancy in Line 39, December 5, 1938.

Therefore, Blackburn should be reimbursed for his wage loss by reason of not being assigned to Line 39, December 5, 1938. The amount of wage loss shall be jointly determined by the parties.

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 claim for wage loss shall be disposed of in accordance with the Opinion.

AWARD

Claim for wage loss shall be disposed of in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 17th day of May, 1940.