

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

I. L. Sharfman, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD TRAINMEN

SOUTHERN PACIFIC COMPANY (PACIFIC LINES)

STATEMENT OF CLAIM: "Ex parte submission of Brotherhood of Railroad Trainmen, in protest of Stewards running on Train No. 248 account not furnished hotel accommodations at Sacramento while waiting overnight for following day's service, and request for same in accordance with Agreement provision."

EMPLOYES' STATEMENT OF FACTS: "Train No. 248 operates between Oakland Pier and Sacramento and Stewards running on this train are released from duty at the latter point at about 8:00 P. M., daily. Next service is commenced the following day at 9:30 A. M., or later, which makes an off duty period of 13 hours 30 minutes, or more, for these employees at their away from home terminal, or layover point.

"Request was made that Carrier provide hotel accommodations at Sacramento, which subsequently was declined."

POSITION OF EMPLOYES: "This case arises under Rule 5 of Agreement covering pay and regulations for Dining Car Stewards, reading:

'Rest—Layover—Periods

Rule 5.

A regularly assigned Steward will, each Calendar month, be allowed not less than four (4) rest periods, each of twenty-four (24) or more consecutive hours, at his home terminal; except where assignments permit of as much as twelve (12) consecutive hours off duty at home terminal within each forty-eight (48) hour period.

NOTE:—Layover periods at other than home terminal will be restricted as much as practicable consistent with proper rest and service requirements. Present practices as to providing sleeping accommodations at away-from-home-terminal will be continued.'

"The Carrier arranging for hotel rooms is the present practice on this property in providing sleeping accommodations for Stewards at away-from-home-terminal points; therefore, the Committee maintains that the Carrier's refusal to do so in the present issue does not conform to the intent and meaning of the 'note' appended to the schedule rule above. Accordingly, the Board respectfully is requested to so find and award."

or more consecutive hours, at his home terminal; except, where assignments permit of as much as twelve (12) consecutive hours off duty at home terminal within each forty-eight (48) hour period.

'NOTE: Layover periods at other than home terminal will be restricted as much as practicable consistent with proper rest and service requirements. **Present practices as to providing sleeping accommodations at away-from-home-terminal will be continued.'** (Emphasis supplied.)

"It will be observed that the rule states that '**present practices** as to providing sleeping accommodations at away-from-home-terminal will be continued.' The identical practice complained of in the instant dispute was in effect prior to and during the entire period of negotiation of the Stewards' Current Agreement; it was in effect on the date that agreement was signed, which was June 11, 1936 (the Agreement became effective July 1, 1936). Therefore, the conditions, to which the petitioner now offers objection, were accepted and agreed to by the representatives of dining car stewards. The carrier does now and always has furnished sleeping accommodations in dining cars for crews of diners in Train No. 248, during the layover at Sacramento following the short run from Oakland which is a distance of only 86 miles, and sleeping accommodations furnished in dining cars are adequate for proper rest. It was known to the employees' representatives at the time of the signing of the agreement that the carrier did not at that time or at any other time guarantee to furnish hotel accommodations at an away-from-home layover or cut out point nor was it understood or agreed that the expression 'sleeping accommodations,' as used in the rule, should be interpreted to mean hotel accommodations.

"The carrier does furnish hotel accommodations at away-from-home-terminals when the conditions justify such action, for instance, at the end of a run of several days, in order to enable employees to avail themselves of bathing facilities and to permit of relaxation after days of travel on the road.

"An award in favor of the petitioner would result in changing the carrier's practice with respect to sleeping accommodations agreed to by the carrier and the Brotherhood of Railroad Trainmen, and embraced in the Stewards' Current Agreement. The National Railroad Adjustment Board is not vested with the authority under the Railway Labor Act to enlarge on provisions of an agreement.

"CONCLUSION

"1. The carrier requests the Board to deny the request of the petitioner on the grounds that a change in rules and working conditions of Dining Car Stewards' Current Agreement is being requested by the petitioner and that an award in favor of the petitioner would change the rules of said agreement.

"2. All data herein submitted has been presented to the duly authorized representatives of the employees.

"3. The carrier requests the privilege of oral hearing."

There is in existence an agreement between the parties bearing effective date of July 1st, 1936.

OPINION OF BOARD: The governing rule, under the Agreement effective July 1, 1936, provides explicitly that "present practices as to providing sleeping accommodations at away-from-home terminal will be continued." The uncontradicted evidence shows that the carrier is providing the same sleeping accommodations for stewards running on Train No. 248 as were provided at the time of the negotiation of the Agreement and prior thereto. In requesting that hotel accommodations be furnished at Sacramento in

connection with this train, the employes are requesting a change in practice. This is a proper subject for negotiation between the parties; but for this Board to order the change requested would be to alter the terms of the Agreement. Such action is beyond the scope of its authority.

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

The evidence of record does not disclose any violation of the Agreement.

AWARD

Request denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 27th day of May, 1940.