

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Richard F. Mitchell, Referee

PARTIES TO DISPUTE:

ORDER OF SLEEPING CAR CONDUCTORS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: "Conductor R. R. Coffey, New York District, claims additional pay amounting to 8 hours, held for service time, for time held away from home station in the month of February 1940, as provided in Rules 9 and 22, Agreement between The Pullman Company and Conductors in the service of The Pullman Company."

EMPLOYES' STATEMENT OF FACTS: "This case has been progressed in the usual manner under the rules of the Agreement between The Pullman Company and Conductors in the service of The Pullman Company. The decision of the highest ranking officer designated for that purpose is shown in Exhibit 'A.' The service performed by Conductor Coffey during the time in question was as follows:

On February 23, 1940, Conductor R. R. Coffey reported at 7:40 P. M. for special service from New York to Waterbury, Vt., arriving February 24th at 7:50 A. M. From 8:00 A. M., that morning, he deadheaded with cars from Waterbury, Vt., to St. Albans, arriving at 9:25 A. M. He left St. Albans on the 25th of February, reporting at 9:15 P. M., deadheading with cars, and arrived at Waterbury at 10:40 P. M. He left in special service from Waterbury at 10:40 P. M. February 25th and arrived in New York, 7:50 A. M., February 26th.

"Rules 9 and 16 are involved in this case and are shown in Exhibit 'B.' The trip from New York to Waterbury in special service was combined with the return trip from Waterbury to St. Albans deadhead with cars for the purpose of applying the maximum layover under Rule 16. As there was only 10 minutes layover in Waterbury, the conductor's time was carried as continuous from New York to Waterbury and back to St. Albans, making the total hours credited, 10'45". Under this method of crediting the hours there would be a layover of 18'30" under Rule 16 before the conductor could take credit for any time held for service. If the return trip to St. Albans had not been combined with the going trip, there would have been a layover in St. Albans of 2'50", after which held for service time would have been allowed as provided in Rule 9. This would have entitled the conductor to an additional credit of 8', for which he would have been paid at his hourly rate."

POSITION OF EMPLOYES: "By referring to the second example shown in Rule 16, Exhibit 'B,' it will be found that it covers the instant case precisely. The fact that the deadhead trip is prior to, instead of after, the special trip makes no difference because the example shows that the deadhead movement cannot be combined with the special trip as was done in this

"(4) The instructions supplied Conductor Coffey required him to remain on duty until released at St. Albans (less sleep period enroute), which made his trip from New York to St. Albans a continuous service trip.

"For the foregoing reasons his claim should be denied."

OPINION OF BOARD: There is little, if any, dispute in the facts in this case. Conductor Coffey performed the following service on what is designated or known as a "snow train." He reported at New York at 7:40 P. M., February 23, 1940 for special service. Train was due to arrive at Waterbury at 6:40 A. M. but was an hour and ten minutes late, arriving at 7:50 A. M. At 8:00 A. M. on February 24 he was in charge of cars dead-heading, arriving at St. Albans at 9:25 A. M. the same morning. He was at St. Albans from 9:25 A. M., February 24, until 9:15 P. M., Sunday, February 25, for which he was paid 8 hours "held for service." In arriving at the number of hours he was entitled to be paid for "held for service" Carrier combined the trip in special service from New York to Waterbury with the trip Waterbury to St. Albans on which he deadheaded with the cars.

The Employees contend that under Rules 9 and 16 the "held for service" time at St. Albans should be based solely and only on the "deadhead trip" from Waterbury to St. Albans which was one hour and twenty-five minutes.

The Carrier states that this conductor was credited with 9 hours and 10 minutes for the trip in "special service" New York to Waterbury and for the deadhead on cars Waterbury to St. Albans he was credited with 1 hour and 35 minutes. The total number of hours credited was 10 hours and 45 minutes and, according to the Carrier, under Rule 16, his layover was computed as 10 hours and 45 minutes times two which produced 21 hours and 30 minutes, less three hours "rest" enroute, or a layover of 18 hours and 30 minutes. According to the Carrier the layover expired at 3:55 A. M., February 25, and they paid Coffey for 8 hours under Rule 9.

Carrier says one question only is presented, namely, should the layover time at St. Albans have been computed on the basis of service hours from New York to St. Albans or on the basis of time consumed in deadheading from Waterbury to St. Albans.

The Employees say the only question to be decided in this case is whether layovers are to be computed on the basis of each service trip as provided for in Rule 16 or on a combination of two or more service trips. The Employees contend that layovers, under Rule 16, should be computed on the immediate preceding trip and based on the nature of the service performed, which, in this case, was the trip deadheaded on cars, Waterbury to St. Albans.

Carrier argues that the instructions which Conductor Coffey received required him to remain on duty until released at St. Albans and therefore shows that the trip made by claimant was one continuous trip, New York to St. Albans. Carrier's right to issue service letters to conductors is not denied but such service letters do not annul the rules of the agreement and it is the rules of the agreement rather than letters of instructions that are to be followed.

Turning now to the rules of the current agreement we find that Rule 9 establishes the credit of hours held for service for his immediate preceding trip. Rule 16 provides the manner to arrive at the layover. It is as follows:

"LAYOVER IN INCOMPLETED REGULAR AND IN IRREGULAR SERVICE: A layover of two (2) hours for each hour of credited service, less rest periods or time enroute not credited, with a maximum layover of thirty-six (36) hours at away-from-home station, shall apply to the following classes of service:

Regular assignment where assignment is not completed.

Line service not covered by bulletined schedule.

Special service.

A similar layover shall apply to the following classes of service, with a maximum layover of twenty-four (24) hours at away-from-home station:

Extended special tour.

In charge of cars moving deadhead.

Deadheading on passes at direction of Management (except in connection with witness service).

Example: (Special service.) A Chicago conductor used in special service Chicago to Los Angeles, reporting Chicago 2:00 P. M. (C. S. T.) January 1st, and released at Los Angeles 11:00 P. M. (P. S. T.) January 3rd (elapsed time 59 hours), if allowed rest period enroute of 10 hours would be credited with and paid for 49 hours' service. On basis of 2 hours' layover for each hour of credited service, less rest period enroute, conductor's layover would expire at 3:00 P. M. January 7th, creating a normal layover of 88 hours; however, due to application of maximum layover of 36 hours at away-from-home stations for such service trips, the conductor's layover would expire at 11:00 A. M. January 5th. The conductor's time for this trip would be apportioned as follows:

Credited service	49 hours
Rest period enroute.....	10 hours
Layover at Los Angeles (basis 2 for 1).....	88 hours
Arbitrary maximum layover that will apply at Los Angeles	36 hours

Example: (Deadhead.) A conductor deadheading Chicago to Minidoka, Idaho, for C. C. C. service, leaving Chicago at 11:15 P. M. (C. S. T.) June 1st, arriving Minidoka 11:15 A. M. (M. S. T.) June 3rd (elapsed time 37 hours) would be credited with and paid for 24 hours' service. On basis of 2 hours' layover for each hour of credited service, less hours enroute not credited, conductor's layover would expire at 10:15 P. M. June 4th, creating a normal layover of 35 hours; however, due to application of maximum layover of 24 hours at away-from-home station for such service trips, the conductor's layover would expire at 11:15 A. M. June 4th. The conductor's time for this trip would be apportioned as follows:

Credited service	24 hours
Time enroute not credited.....	13 hours
Layover at Minidoka (basis 2 for 1).....	35 hours
Arbitrary maximum layover that will apply at Minidoka	24 hours"

The two classes of service here involved are "special service" and "deadhead on cars service." Under Rule 16, the layover of the first class is two hours for each hour of credited service, less rest periods or time enroute not credited, contained in the first paragraph of the rule. The layover of the second class "in charge of cars moving deadhead" is contained in the second paragraph of the rule and it provides for a similar layover with a maximum of 24 hours.

The Board is of the opinion that under Rule 16 classes of service in the first part cannot be merged or coupled with those in the second part. Rule 22 provides payment at the hourly rate for the time held for service at St. Albans. In answer to the Employees' Statement that there were two different classes of service involved which required separate entries in different columns in the Conductors' time-book, the Carrier states: "To be sure the Conductors' time-book shows examples of separate entries for different

classes, but the time credits and pay of conductors are computed in accordance with the rules of the existing Agreement and not on examples appearing in the books containing blank time sheets for the use of conductors in entering their time."

The Board agrees with the Carrier that time credits and pay of conductors are to be computed in accordance with the current agreement and not the manner in which Carrier requires its conductors to enter their time, but the Board is of the opinion that the manner in which the Carrier required the conductors to enter their time in this case tends to show the construction placed upon the contract by the Carrier.

A case involving a very similar question was before the Board of Adjustment in Decision No. 27 and it sustained the contention there made by the Sleeping Car Conductors.

The Board is of the opinion that under Rule 16 the layovers should be computed on the immediate preceding trip based on the nature of the service performed which, in this case, was the trip deadheaded on cars Waterbury to St. Albans.

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 Carrier violated the current agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 19th day of December, 1941.