

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of D. Toliver who is now and for a number of years past has been employed by The Pullman Company as a Porter operating out of the District of Shreveport, Louisiana. Because The Pullman Company did, under date of May 24, 1941 deny the claim filed by this Organization for and in behalf of Porter Toliver because The Pullman Company, in violation of Rule 46 of the agreement between The Pullman Company and its porters, attendants and maids, did improperly assign Porter Toliver whereby he lost pay by virtue thereof. And further, for Porter Toliver to be paid the difference between the amount he would have earned during the period of April 16, 1941 to April 22, 1941 and the amount he did earn during that period because of having been improperly assigned in violation of Rule 46 above referred to.

EMPLOYEES' STATEMENT OF FACTS: Your petitioner, the Brotherhood of Sleeping Car Porters, respectfully submits that it is duly authorized to represent all Porters, Maids, Attendants and Bus Boys employed by The Pullman Company as it is provided for under the provisions of the Railway Labor Act.

Your petitioner further submits that in such capacity it is duly authorized to represent D. Toliver who is now and for a number of years past has been employed by The Pullman Company as Porter operating out of the District of Shreveport, Louisiana.

Your petitioner further submits that under date of May 20, 1941 a claim was filed by the Brotherhood of Sleeping Car Porters for and in behalf of D. Toliver contending violation of the agreement by the respondent company in the assignment of Toliver to do work in the Shreveport, Louisiana District. Detailed facts in connection with this claim are set forth in the original document of claim filed under date of May 20, 1941, identified as Exhibit A, pages 1—3.

Your petitioner further represents that The Pullman Company did under date of May 24, 1941 through its Agent, A. G. Boldridge of Shreveport, Louisiana, deny the above mentioned claim. And further that this claim was progressed through the regular channels up to and including Mr. B. H. Vroman, Assistant to the Vice President of The Pullman Company, the last officer designated by the Management to handle matters of this sort, who did under date of August 21, 1941 sustain the decision of Agent Boldridge in which this claim was denied.

POSITION OF EMPLOYES: Copy of original letter of claim filed with Agent Boldridge; copy of letter of Agent Boldridge denying said claim; the Organization's ex parte Statement of Facts; the Management's ex parte State-

once assigned, is no longer available for a subsequently arising assignment. Rule 46 treats only with **available** extra employes. It is, therefore, apparent that Toliver, having already been assigned before the assignment given Harris arose, was assigned in accordance with the letter and intent of Rule 46.

The necessities of the service require that each district set a specific time each day at which time the available extra porters are assigned, in order, to the available assignments. It must be apparent, that, frequently after the assignments for a specific day have been made, extra cars are requested by the railroads or some regular porter becomes ill or otherwise absents himself and whose line must be filled. The cars involved may depart prior to those to which extra porters had already been assigned. It is altogether impractical and in many districts physically impossible to open up all the extra assignments and canvass all the extra porters who had been previously assigned, but whose departure time is later than that of the new assignments, and assign the porter first out to the new assignment, thereby disrupting all assignments previously made but which had not yet departed.

In a large district the difficulties involved in changing thirty, forty or fifty assignments would be insurmountable. Once an extra porter has received his assignment he is at liberty to do as he pleases until reporting time. He cannot be expected to stay at home awaiting a call for some earlier departing assignment which might become available. Even if the porters were at home, a car, ordered on short notice, could not be supplied with a porter if thirty or forty or more porters, already assigned, had to be contacted before this assignment could be filled. Therefore, when additional cars are requested or some regular man cannot fill his assignment, after the assignments have been made for the day, we follow exactly the method contemplated in the rule—that is, we assign the next available extra porters in the order in which their layovers expire, to the additional cars, regardless of whether these cars are scheduled to depart earlier or later than the cars involved in the assignments already made. While occasionally this practice causes an extra porter, due out first, to depart later than an extra porter whose layover expired after his, the exigencies of the service demand that a quick and practical method of filling these short-notice assignments be followed. The method outlined above and followed in this case complies with the rule, and is as fair as can be devised and still adequately protect the service.

In conclusion we submit that the evidence clearly shows that Harris and Toliver were assigned in accordance with the only practicable method for handling the assignment of extra porters. The Third Division of the National Railroad Adjustment Board has already stated that this method of assignment is proper. We further submit that Rule 46 has been precisely followed and that, therefore, this claim is without merit and should be denied.

OPINION OF BOARD: The issue in this case is whether Porter Toliver was assigned to service April 14, 1941 in accordance with the provisions of rule 46 of the agreement effective October 1, 1937.

Following a deadhead trip April 12-13, 1941, Toliver reported to the Shreveport Agency by telephone shortly after 9:00 A. M. April 14th for assignment and was given his choice of two assignments, both having a reporting time of 7:30 P. M. that evening. He chose and was assigned to line 3503.

Some 5 hours later, or at 2:00 P. M. April 14, 1941, the Shreveport Pullman office was advised that an additional car would be required for a C.C.C. movement on train arriving at 4:00 P. M. April 14th. The only available extra porter, who had not been assigned, was Harris, and he was used on the additional car ordered for 4:00 P. M.

Rule 46, providing that extra employes, when available, shall be used first in, first out, etc., must be observed in making assignments in the usual and customary manner. Porter Toliver having been assigned to line 3503 was not available for assignment to the extra car which was subsequently ordered.

Under the circumstances of this case the use of Harris was proper and the claim should be denied.

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 Porter Toliver was properly assigned under the provisions of rule 46 and the claim will be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 14th day of July, 1942.