

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Elwyn R. Shaw, Referee

PARTIES TO DISPUTE:

THE ORDER OF SLEEPING CAR CONDUCTORS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: Unjust treatment (Rule 46) in the allocation and reallocation of runs, which has deprived Kansas City Conductors of their fair share of work—with particular reference to Lines 3312 and 3556, reallocated to the St. Louis District on April 23, 1941, signed by R. H. Pollack, R. K. Johnson, C. A. Miller, E. A. Waggoner, H. N. Bowers, F. E. Hildebrand, F. S. Outman and L. M. Kern, Kansas City District Conductors.

EMPLOYEES' 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 claim involves the Agreement in general and Rule 46 in particular, Exhibit "B."

In the fall of 1940, the Kansas City conductors complained about insufficient work. This complaint was partly relieved by reallocating Lines 3312 and 3556 from St. Louis to Kansas City, requiring five conductors. These runs were given back to St. Louis on April 22, 1941, at a time when the St. Louis District did not have sufficient conductors to man them, and the Kansas City District conductors who were assigned to them had to stay on them under a temporary transfer to St. Louis until a sufficient number of St. Louis men could be arranged for.

POSITION OF EMPLOYEES: The position of the employees is well stated in their original submission at the initial hearing and is shown in Exhibit "C."

The St. Louis conductors were notified of this complaint when the case was heard before the Superintendent at that terminal (second hearing) and they presented their exceptions to the complaint, as shown in Exhibit "D." By comparing the statement of the Kansas City conductors, Exhibit "C," with that made by the St. Louis conductors, Exhibit "D," it will be seen that the St. Louis men have not answered the original complaint and their citations of Rules do not have any bearing on it. The restriction of seniority to operating Districts is not the basis of the complaint. It is the reallocation of runs that has caused the trouble. When the employees agreed to rules restricting seniority they did so with the understanding that runs would not be reallocated in such manner as to build up work in one District at the expense of another so that junior men would be regularly assigned in the favored District while the less fortunate District would have older men on the extra board or furloughed. Kansas City has been the less fortunate District in this case for many years. The complainants have no objections to the entry of the St. Louis men into this case. They are glad to note, however,

but this is a situation over which the Company had no control. Prior to and during the 1920's a considerable amount of Pullman business originated in Kansas City. During the depression years of the 1930's this "originating business gradually dwindled to such an extent that Kansas City became a point handling more "passing" than "originating" business. This meant, unfortunately, that some of the Kansas City District conductors of long service were necessarily furloughed. Sincere effort was made to provide work for men who desired to transfer permanently or temporarily to other districts. Now the situation has quite materially changed. Recently a conductor run was re-established on the Kansas City Southern Railroad between Kansas City and Shreveport which gave 3 Kansas City District conductors regular employment. With the increased volume of troop movements there are now no Kansas City District conductors on furlough; moreover, there is more work that the extra board of the Kansas City District can properly handle. In fact, just recently an additional conductor has been employed at Kansas City.

From the foregoing it must be apparent that the allegation that the Company was making a "whistling post" out of Kansas City is not based on fact. Evidence that this was not so in the past is borne out by the fact that when in August, 1940, the Kansas City District temporarily lost a conductor operation on Sante Fe Trains Nos. 27 and 28, the conductor operation on Missouri Pacific Trains Nos. 9 and 10 was transferred into Kansas City for the period of the loss, August 6, 1940, to September 26, 1940. It must also be evident that the return of conductor operations on Missouri Pacific Trains Nos. 9 and 10 and Wabash Trains Nos. 17 and 18 to the St. Louis District in April of 1941 did not constitute unfair treatment of the Kansas City District conductors.

SUMMARY

We have shown herein that the conductor runs on Missouri Pacific Trains Nos. 9 and 10 and on Wabash Trains Nos. 17 and 18 have been regular St. Louis conductor operations since their inauguration, except for temporary transfers to Kansas City in 1939 and 1940. These transfers have been shown to have been made in the interest of relieving increased conductor requirements brought about by seasonal fluctuations in business, and to provide work for Kansas City District conductors during their off-season periods. They stemmed in 1939 from Cincinnati, and in 1940 from Cincinnati and from Pennsylvania Terminal. It has been pointed out that the allocation of runs is not provided for in any rule of the agreement between The Pullman Company and its Conductors. Through the protest of the St. Louis District conductors against a permanent allocation of these operations to the Kansas City District, we have shown a division of opinion within the organization in this dispute. We have also shown that a scarcity of work for conductors in the Kansas City District was not occasioned by any willful action on the part of the Company, but, instead, was due to economic conditions over which neither the conductors nor the Company had any control. The claim of the Kansas City conductors is without merit and should be denied.

OPINION OF BOARD: This controversy is really a dispute between the St. Louis local and the Kansas City local of the Order of Sleeping Car Conductors rather than a dispute between a labor organization and a carrier.

It appears from the record that in the fall of 1940 the Kansas City Conductors complained of insufficient work and this complaint was partially relieved by the carrier by allocating Lines 3312 and 3556 from St. Louis to Kansas City, giving employment to five conductors. In the spring of 1941 these runs were given back to St. Louis and have since remained there. The Kansas City local wishes these Lines returned to the Kansas City District.

It seems that seasonal requirements such as Florida winter travel having certain peaks and maximums and existing problems requiring large move-

ments of troops made it necessary for the carrier to change its arrangement from time to time. However that may be the fact remains that there is nothing in the rules of agreement between the Pullman Company and the Order of Sleeping Car Conductors which can be said to interfere with such a practice or in any way to control the discretion of the carrier in the allocation of runs. The Petitioners in this cause refer to Rule 46 which has nothing at all to do with the question in dispute. We find nothing in the rules or in the Railway Labor Act which could give us any jurisdiction to determine this matter.

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 Third Division has no jurisdiction to pass upon the question involved in this case, and

That the claim should be denied for want of such power.

AWARD

Claim denied for want of jurisdiction.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 1st day of October, 1942.