

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Herbert B. Rudolph, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: For and in behalf of Attendants V. O. Smock, G. H. Smock, and M. Dago, Bus Boys C. S. Bello and L. O. Payne who are now, and for some time past have been, employed by The Pullman Company in the Los Angeles District as Attendants and Bus Boys respectively. Because The Pullman Company did, under date of November 17, 1941, deny the claim filed by the Organization for and in behalf of the above-mentioned employes of the Los Angeles, California District because of violation of the contract between The Pullman Company and its Porters, Attendants, Maids and Bus Boys. And further, for said employes to be paid for time lost by virtue of the above-mentioned violation.

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

Your petitioner further sets forth that in such capacity it is duly authorized to represent Attendants V. O. Smock, G. H. Smock, M. Dago and Bus Boys C. S. Bello and L. O. Payne, who are now and have been for a number of years past, employed by The Pullman Company, operating out of the District of Los Angeles, California.

Your petitioner further sets forth that the above mentioned employes were operating in a regular assignment between Los Angeles, California and Oakland, California as Attendants and Bus Boys in line No. 3543.

Your petitioner further sets forth that on or about the 21st of September, 1941 the above mentioned assignment was temporarily discontinued in part because a train wreck had demolished one of the cars so badly that it could not be used, and, therefore, the line had to be operated with one car and could, therefore, only leave each terminal every other night.

Your petitioner further sets forth that because of said temporary discontinuance of said operation that the above mentioned employes could not operate on this run regularly as the schedule called for and, therefore, were forced to miss every other trip.

Your petitioner further sets forth that under the rules of the contract that the management of The Pullman Company paid these men for the time lost as a result of this discontinuance of the assignment up until on or about September 27, 1941 and thereafter the management discontinued payment to these men for trips missed and made a new arrangement for the operation of the men on the run calling it a one-car assignment. And that

"Due to withdrawal of one car in line 3543 the line will operate with one car on the following schedule, effective September 27, 1941:

Departures.....	September 28
	September 30
	and every second day thereafter
	until further notice."

The Company then bulletined vacancies for three attendants in this line.

The Organization contends that because the management left the six attendants assigned to Line 3543 prior to September 19, 1941, in the assignment from that date to September 27, 1941, it should continue to pay the men for their idle time thereafter, "because nothing changed after that date in actuality." The Organization completely disregards the bulletins posted as of September 27, 1941 designating a changed operation and thereby meeting the requirements of Rule 42. (See Exhibits A, B, C, D and E.)

In this submission we have confined our remarks largely to a discussion of the situation with regard to attendants. The same statements and arguments apply with equal force to the bus boys, except that initially there were two regular and one relief bus boy positions involved. Further, because of the fact that there were only two bus boys in the Los Angeles District, the bus boy work on Line 3543 for the period September 19 to December 30, 1941, was distributed between these two rather than operate one bus boy full time and the other a quarter of the time.

OPINION OF BOARD: Claimants rely upon Rule 43 of the Agreement. This rule relates to a regular assignment which has been "temporarily discontinued." The facts of record disclose that car 400 was demolished. There was no available car to replace the demolished car and the carrier on September 27 issued its bulletins discontinuing the assignments to the two car operation and setting up the one car operation. The facts disclose that the time when a new car could be furnished was indefinite. More than three months elapsed before the demolished car could be replaced. Under these facts we are of the opinion that the assignments to a two car operation were not "temporarily discontinued" within the meaning of Rule 43.

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 employees involved in this dispute are respectively carrier and employees 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 the assignments of claimants were not temporarily discontinued within the meaning of Rule 43.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois this 8th day of March, 1943.