

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Bruce Blake, Referee

PARTIES TO DISPUTE:

THE ORDER OF SLEEPING CAR CONDUCTORS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: Conductors W. I. Etnyre, H. O. Clark, V. J. Murtaugh et al., Chicago Western District, claim the right of extra conductors to be assigned to the "Trail Blazer," Pennsylvania Railroad, for the purpose of performing conductors' duties, which have been performed by Pullman employes other than conductors. The extra man first due out on each occasion to be assigned. Pay is claimed for each trip on which employes other than conductors have been used, to be allowed the extra conductor properly due out on each such occasion.

EMPLOYES' STATEMENT OF FACTS: This case has been handled in accordance with the Agreement between The Pullman Company and Conductors in the service of The Pullman Company. Decision of the highest officer designated for that purpose is shown in Exhibit "A." Rules 22, 25, 31 and 46 are involved and are shown in Exhibit "B." The facts are discussed in the minutes of the hearing with the District Superintendent on December 9, 1941, as set forth under the caption: "Position of Employes."

POSITION OF EMPLOYES: The position of the employes is brought out in the minutes of the hearing in the office of the District Superintendent on December 9, 1941, which are shown in Exhibit "C."

CARRIER'S STATEMENT OF FACTS: As an experimental operation to test the feasibility of a new type car known as the Pullman Coach-Sleeper, a 60-day trial operation, from October 15th to December 15, 1941, was provided for by agreement with the Pennsylvania Railroad for operation of these cars on Coach Trains Nos. 76 and 77, known as the "Trail Blazer," between Chicago and New York.

The cars used on this train represent an innovation in Pullman service. They are designed to provide Pullman service at a minimum of cost, only slightly in excess of the fare paid for travel in a railroad coach. (See Page 11—Exhibit A). Pullman cars used on this train are Coach-Sleepers Nos. 1 and 2 which have a passenger capacity of 45 persons each. The accommodations in these cars consist of 10 compartments which are entered from an aisle which runs along the side of the car. Berths in the compartments are in tiers of three. There are two types of compartments accommodating, respectively, 3 and 6 passengers. In each compartment which affords accommodations for three passengers there is one lower, one middle and one upper berth; in the 6-passenger compartments there are two lower, two middle and two opposite upper berths. The lower berth is formed by the seat back, as is the case in the bedroom of a standard car; the middle berth (raised against the upper

by a diligent and experienced sales promotion program, coupled with a careful polling of passenger reaction, could this test operation indicate the success of this new type car. These representatives were removed December 6th, and the entire service was discontinued on December 15th, 1941.

SUMMARY

The operation here complained of has been shown to be a temporary experimental one lasting, in all, but 60 days. It has been shown that it was The Pullman Company's desire to gain the utmost in experience with this operation during that brief period. The sales instructors specifically referred to by the petitioner in its grievance, have been shown to be trained Passenger Department representatives who were placed on the cars to promote sales of space and to canvass passengers' reaction to the new service being offered. They were not assigned in lieu of conductors, nor did they function as such. Moreover, the service inspectors who performed a similar function, though not specifically complained of by the petitioner, functioned as representatives of the office of the Superintendent of Car Service Employees, and were also not assigned in lieu of conductors. Furthermore, the wearing of conductors' uniforms by the sales instructors who possessed these uniforms as part of their regular equipment was without significance. The use of the uniform could not change the nature of the work being done nor the status of the employee. The service inspectors who performed an identical function on the Coach-Sleepers possessed no uniforms and therefore wore none.

It has been shown that for a portion of the period of the operation of the Coach-Sleepers on the Pennsylvania Railroad "Trail Blazer" neither the sales instructors nor the service inspectors were present on the cars. This fact in itself establishes that they were not doing conductors' work.

This case is identical in principle to the case involving Conductors Langosch, Kohler, McCarte, et al., which concerns the operation of Coach-Sleepers on the New York Central Railroad train the "Pacemaker" and which dispute is simultaneously before the Board for consideration.

The claim of the petitioner that the operation here involved constituted a violation of the Agreement between The Pullman Company and the conductors in its service is without merit and should be denied.

OPINION OF BOARD: Rule 31 of the controlling agreement provides:

"Bulletining of Runs. New runs, permanent vacancies, seasonal runs, temporary vacancies known to be of over sixty (60) days' duration caused by sickness, injury or leave of absence, and temporary runs of over thirty (30) days shall be bulletined for a period of ten (10) days in the district where they occur. * * *"

By agreement with the Railroad the Pullman Company put a sleeper on the "Trail Blazer" for "a 60-day trial run." It did not bulletin the run for conductors but used in their stead other employees of the Company who held no seniority rights under the Sleeping Car Conductors' agreement. That such employees performed services falling within the scope of duties covered by the Conductors' agreement there can be no doubt.

That the cars were of a new type and attached to what had theretofore been all coach trains is beside the issue. They were sleeping cars, owned and operated by The Pullman Company. Grant that the run was experimental it was, nevertheless, a temporary run of more than thirty (30) days duration in contemplation of rule 31. That the carrier sought to maintain the operation under the "porter-in-charge" provisions of the Porters' agreement is no excuse for its failure to bulletin the run under the Conductors' agreement.

The Awards cited in support of the porter-in-charge theory are not apposite. Those cases deal with situations where traffic on a run has dropped off to such an extent as to justify dispensing with the conductors services and putting a porter in charge of the sleeper. In this record there are none of the elements present necessary to sustain the Carrier's position on the porter-in-charge theory. See Award 779. In the nature of the case there could be none. It was a new run—a temporary run of more than thirty (30) days. Under rule 31 the Carrier was required to bulletin it.

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 carrier violated the agreement.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 9th day of April, 1943.