

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 some 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 July 17, 1944, deny the claim filed by the Petitioner for and in behalf of D. Toliver of the Shreveport, Louisiana District because of violation of the agreement between The Pullman Company and its Porters, Attendants, Maids and Bus Boys represented by the Brotherhood of Sleeping Car Porters.

And further, for D. Toliver to be paid for all time lost because of the above mentioned violation of the agreement.

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

Your Petitioner further sets forth that in such capacity it is duly authorized to represent D. Tolliver who is now, and for some years past has been, employed by The Pullman Company as a porter operating out of the Shreveport, Louisiana District.

Your Petitioner further sets forth that on January 31, 1944 D. Tolliver reported on Car McNair, Line 3522, at 2:15 PM as is required by the schedule of this, his regular assignment. He was informed that on account of a wreck caused by the blowing up of a railroad engine at Forney, Texas the car to which he was assigned was being cut out and would not make the trip. Tolliver notified The Pullman Company's Shreveport Office immediately and was ordered to remain at the station until the train left Shreveport. This order was complied with.

Your Petitioner further submits that Tolliver was offered no other assignment on January 31, 1944.

Your Petitioner further sets forth that Tolliver reported to the Shreveport Office daily February 1st through 4, 1944. On February 4, 1944 Tolliver was instructed to report for his regular assignment on February 5, 1944.

Your Petitioner submits that when Tolliver received his pay for the first half of February 1944 this pay did not include any compensation for the trip which should have started January 31, 1944.

Your Petitioner further submits that with his pay for the first half of April 1944 Tolliver was allowed two additional days pay for the first half of February 1944 in connection with this claim.

In view of these facts, the Company submits that the position of the Brotherhood of Sleeping Car Porters in progressing this case before the Third Division of the National Railroad Adjustment Board is untenable. Its claim is without merit and should be denied.

OPINION OF BOARD: The record in this case discloses by facts presented by Petitioner that this claim originally comprehended the five-day period January 31 through February 4, 1944, and that Carrier with claimant's first half of April 1945 earnings allowed two days and with his second half April 1945 earnings allowed one day thereof. Subsequently, by letter May 7, 1946, prior to the hearing on this claim, Carrier competently advised Petitioner's representative in part:

"In the interest of disposing of this case, I am today directing the general auditor to prepare a voucher in amount sufficient to compensate Porter Toliver for the two days' pay claimed by him for the first half of February, 1944."

Hence, the cause for complaint is shown to have disappeared prior to the hearing thereon, and the claim is now moot.

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 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 cause for complaint is shown to have disappeared prior to the hearing thereon, and the claim is now moot.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary

Dated at Chicago, Illinois, this 23rd day of September, 1946.