

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Joseph L. Miller, Referee

PARTIES TO DISPUTE:

ORDER OF RAILWAY CONDUCTORS, PULLMAN SYSTEM

THE PULLMAN COMPANY

**STATEMENT OF CLAIM:** The Order of Railway Conductors, Pullman System, claims for and in behalf of Conductor E. D. Geiger, Philadelphia District, that the Pullman Company violated Rules 10, 22 and 23 of the agreement between the Pullman Company and Conductors in its service in computing Conductor Geiger's time for the month of November, 1945, with special reference to the trip of November 16-17, for which trip Conductor Geiger was instructed to report for duty in Philadelphia at 10:30 P.M. November 16 to deadhead on pass to Harrisburg, Pennsylvania, arriving 1:25 A.M. November 17, elapsed time 2:55 hours. He then performed station duty (non-road service) in Harrisburg from 1:25 A.M. November 17 to 5:00 P.M. same date, elapsed time 15:35 hours. The deadhead trip and station duty have been coupled and Conductor Geiger has been credited and paid 18:30 hours. Under the provisions of Rule 23, station duty cannot be coupled with road service. We now ask that Conductor Geiger be compensated for an additional 4:35 hours, the difference between 2:55 hours, the time he has been credited with, and paid for the deadhead trip, and 7:30 hours, a minimum day.

**EMPLOYEES' STATEMENT OF FACTS:** There is in evidence an agreement between the Pullman Company and the Conductors in the Service of the Pullman Company, effective September 1, 1945. This dispute has been progressed in accordance with the agreement. Decision of the highest officer designated for that purpose, denying the claim, is shown as Exhibit No. 1.

The facts in this dispute are quite simple. Conductor E. D. Geiger, of the Philadelphia District, was assigned to report for duty at the night agent's office in Philadelphia at 10:30 P.M. November 16, 1945, and deadhead on pass on Pennsylvania Railroad Train No. 35, departing at 11:15 P.M., to Harrisburg, Pennsylvania, at which point he was to take charge of Mains W.M.B.-60636 and 60832 en route Perryville, Maryland. He was instructed to carry his time as continuous from reporting time in Philadelphia until arrival at Perryville. The Assignment to Duty form was issued in compliance with paragraph (b) of Rule 38. This Assignment to Duty form is shown as Exhibit No. 2.

On November 16, 1945, Conductor Geiger reported as instructed at 10:30 P.M., deadheaded on pass from Philadelphia to Harrisburg, arriving 1:25 A.M., elapsed time 2:55 hours. He waited in Harrisburg to protect the movement covered by the above mains from 1:25 A.M. November 17 until 5:00 P.M. same date, elapsed time 15:35 hours, at which time this movement arrived. As these mains arrived in charge of a conductor there was no need for the services of Conductor Geiger. He therefore communicated with the Philadelphia office and was instructed that the part of his

payroll \$10.32 in addition to his actual accumulated earnings for the month. He was available for work on 25 days of the month, earning \$104.61 in the first half and \$74.74 in the second half of the month, and because of the provisions of the sixth paragraph of the 'Memorandum of Understanding Regarding the Operation of Extra Conductors' contained in the agreement, he was paid the difference between his actual earnings and the pro rata proportion of his monthly wage for the days he was available, which amounted to \$10.32. In view of this payment to Conductor Geiger I do not see that he is entitled to any further adjustment for the services he performed during the month in question." (District Superintendent W. A. Hartley.)

In the final paragraph of his statement, Mr. Hartley, as may be noted above, emphasized the fact that Rules 7 and 23 of the agreement contemplated that payment be made at straight time rates for actual hours in deadhead service from the home station to arrival at the point of induction into special service and the actual time consumed at the outlying point awaiting the arrival of the equipment to which assigned. On the other hand, payment for the deadhead trip from an outlying point to home station in cases such as the instant one where less than seven and one-half ( $7\frac{1}{2}$ ) hours service is involved should be credited and paid not less than seven and one-half ( $7\frac{1}{2}$ ) hours, a minimum day. Thus, on the basis of this interpretation, Conductor Geiger was entitled to an additional allowance of forty-five minutes for the twelve-hour period from 10:30 P.M. November 16 to 10:30 A.M. November 17, and to an additional allowance of four hours for the deadhead trip, Harrisburg to Philadelphia. Finally, Mr. Hartley called attention to the fact that for the month of November, 1945, Conductor Geiger was paid under the provisions of the sixth paragraph of the Memorandum of Understanding.

Conductor Geiger was available for work on twenty-five days in November, 1945, earning \$104.61 in the first half and \$74.74 in the second half. On the basis of the pro rated proportion of the monthly wage for the total days he was available, Conductor Geiger was entitled to earnings of \$189.67 for the month. Thus, in the second half of November payroll Geiger was paid \$10.32 in addition to his actual accumulated earnings for the month, which sum covered the four hours and forty-five minutes (4:45 hours) which the Company allowed in the claim.

We submit that the claim herein presented should be denied since the rules of the agreement permit the Company to couple a deadhead trip of less than seven and one-half ( $7\frac{1}{2}$ ) hours and irregular road service and treat such combined service as a single movement, provided the conductor is not released between the different classes of service and the combining of services is not used for the purpose of making a deduction for rest en route.

**OPINION OF BOARD:** This dispute boils down to a single question: What was Conductor Geiger doing, in terms of the agreement, while he was on duty in Harrisburg between 1:25 A.M. and 5:00 P.M. November 17, 1945? If he was in road service, as the Carrier contended, he need not be paid the  $7\frac{1}{2}$  hour minimum for his deadhead trip from Philadelphia to Harrisburg. (Q-1. A-1 of Rule 23.) On the other hand, if he was on station duty, as the organization contended, he would have to be paid the  $7\frac{1}{2}$  hour minimum for the deadhead trip under Rule 23.

Both Carrier and organization agree that the dispute would never have arisen had Conductor Geiger been able to carry out the assignment he was given in Philadelphia—to deadhead to Harrisburg, there to pick up a troop train destined for Perryville, Maryland. Had he picked up the troop train there would have been no question of the nature of his duty in Harrisburg. It would have been part of road service. Hence the Carrier would have been correct, without dispute, in paying for only 2:55 for the deadhead trip. As it worked out, however, Conductor Geiger's assignment was changed at 5:00 P.M. November 17 after it was found his services aboard the troop train

were not needed. The organization contends that the change in assignment—to return deadhead to Philadelphia instead of working the troop train to Perryville—converted the hours spent at Harrisburg into non-road service or station duty. The Carrier contends that the change in assignment merely put an end to the road service which Geiger had been directed to perform.

The organization is correct in its contention that Conductor Geiger was not engaged in irregular road service while he was in Harrisburg, despite his original instructions. “\* \* \* It is the rules of the agreement rather than letters of instructions that are to be followed.” (Award 1662.) Extra, or irregular road service is defined in Rule 22, Question 1, as “any revenue producing trip, exclusive of an extended special tour, not covered by a conductor’s regular assignment.” Conductor Geiger certainly had no part in any revenue producing trip.

Having found that the Carrier was wrong in classifying Conductor Geiger’s waiting time in Harrisburg as road service, we must now endeavor to define it positively for the purpose of arriving at the total time due him.

The organization called it “station duty.” We disagree, if the term is used in its strictest sense. “Station duty” is a general utility service in a station; Conductor Geiger was performing no general utility service—he was just waiting. He was “called and reporting for road service and not used.” Rule 10 couples that type of duty with station duty for the purposes of computing time.

How, then, should Conductor Geiger’s time be credited and paid? For the service in Harrisburg, in accordance with Rules 10 and 22. For the return trip to Philadelphia in accordance with Rule 23, which the Carrier has already done. For the trip to Harrisburg, also in accordance with Rule 23, which the Carrier has not done. To all intents and purposes there is no difference between the trips to and from Harrisburg. They were separated by a different kind of duty. The Carrier itself admitted that the return trip should be paid for on the basis of seven and one-half hours. That being so, it should have calculated the outbound trip on the same basis.

In this connection we should point out that Conductor Geiger will have no more money coming for November, 1945, since his previously paid monthly guarantee takes care of the claim.

**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 Rules 10 and 23 of the agreement.

#### AWARD

Claim in behalf of Conductor Geiger sustained in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: H. A. Johnson,  
Secretary

Dated at Chicago, Illinois, this 9th day of October, 1947.