

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Adolph E. Wenke, 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 Conductors R. Eastman, G. W. Sheets and J. L. Houseman, of the Pennsylvania Terminal District, New York, that the Pullman Company violated Rules 25, 31 and 37 of the agreement when the Company annulled the assignments of these conductors on PRR Trains 133-106, RF&P-ACL-FEC Trains 7 and 8, between New York and Miami, which assignments were due to depart and did depart from New York on Sunday, May 26; Monday, May 27, and Tuesday, May 28, 1946.

Claim is also made that these conductors be compensated for each trip that they were not permitted to operate in their assignments.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement between the Pullman Company and Conductors in its service bearing effective date of September 1, 1945. There is submitted a copy of the Memorandum of Understanding, Subject "Compensation for Wage Loss," dated August 8, 1945, designated as Exhibit No. 1. This dispute has been progressed up to and including the highest officer designated for that purpose, whose letter denying the claim is shown as Exhibit No. 2.

Initial hearing in this case was held in the office of Mr. E. P. Karlson, Assistant District Superintendent, Pennsylvania District, on September 18, 1946.

On May 23, 1946, the Engineers and Trainmen employed in the Operating Department of the railroads throughout the United States left the service. On this date, the Pullman Company annulled Pullman assignments, including the assignments of all seven of the conductors in the service outlined in the Statement of Claim. This service constitutes "a run that has preferred sides" and the assignment of conductors to this run required that they leave New York as follows:

Sunday—Conductor Eastman
Monday—Conductor Sheets
Tuesday—Conductor Houseman

and so on through the list of seven conductors; and then repeat. Likewise, each individual left the opposite terminal on the same day of the week and in definite order of succession. Each of these conductors had been assigned to the preferred side held by him in accordance with his seniority, exercised through bid on a vacancy or by displacement of a junior man, due to his own displacement from another assignment, as provided in Rules 31 and 37 of the Agreement. When their assignments in this run were annulled, these conductors reverted to the extra board.

annul a run which is discontinued for any reason for only one day, which prohibition is not applicable to this dispute inasmuch as Line 6040 was discontinued for three days.

Further, we have established that each side of a run with preferred sides is an integral part of a run and not an independent run. The Organization is constrained in this dispute to establish that each side of a run with preferred sides is totally independent and that Line 6040 is not one run but seven runs. A run with preferred sides is clearly defined in Rules 31 and 37 of the Agreement and establishes this type of operation as a single run.

Finally we have shown that the Company has violated no rule of the Agreement when it annulled Line 6040 on May 23, 1946. The Organization has conceded, as has been set forth under point 1 of this ex parte submission, the Company's right to annul conductor assignments affected by any interruption of service and has insisted that no rule is necessary in the Agreement to particularize that right of Management.

All of the facts in this dispute lend convincing support to the position of Management. Under the circumstances, therefore, the claim in behalf of Conductors Eastman, Sheets and Houseman should be denied.

OPINION OF BOARD: This difficulty developed out of the nation-wide strike of engineers and trainmen on May 23, 1946, which caused a cessation in the operation of all railroads. As a result thereof the Company, by bulletin, discontinued all its conductor operations effective as of that date, including Pullman Line 6040. This was a seven man run and therefore a run with preferred sides. It operated on PRR trains 133-106 RF&P-ACL-FEC trains 7-8 from New York to Miami and return.

Because the strike caused a complete suspension of its operations, the duration of which could not be predetermined but which actually lasted over twenty-four hours, the Company had the right to abolish or discontinue all its positions affected thereby. However, the strike was of short duration and ended on May 25, 1946. As a consequence the Company, by bulletin, re-established Pullman Line 6040 on May 26, 1946, in the manner as provided by Rule 31 of the parties' effective Agreement. The claimants, on June 4, 1946, were again given the same sides of the run as they previously held, that is: Eastman the Sunday side, Sheets the Monday side and Houseman the Tuesday side.

The difficulty arises over the fact that because of the short duration of the strike the discontinuance of Pullman run 6040 did not last through the cycle of its seven sides. During the period that the line was being re-established by bulletin, that is from May 26 to June 4, 1946, the Company filled the sides from the extra board. It is the thought of the employees that each side of this preferred run is a separate assignment and should have been separately discontinued as it was reached and consequently the sides here involved, that is those of May 26, 27 and 28, 1946, were never actually discontinued.

We find nothing in the language of the parties' effective Agreement to that effect. A preferred run is one where the home layovers occur on the same days of the week as where the run requires 2½, 3½, 7, 10½ or 14 conductors. In order to determine if the run is one with preferred sides it must be taken as a unit for unless it complied with this test it would not be such. Therefore, each side of a run with preferred sides is an integral part of the run and not an independent run by itself. When the Company discontinued the run it properly discontinued it as a whole and re-established it as a whole. When the sides of this preferred run again became operative on May 26, it was not a continuation of the sides of the old preferred run, which had been discontinued, but sides of the preferred run as re-established. There is nothing in the Agreement contrary thereto.

Rule 31 provides that "each side of a run that has preferred sides, * * * shall be promptly bulletined for a period of 10 days * * *", which the Company did when it re-established the run.

Rule 37 relates to "Displacement Rights of Conductors" and gives seniority a special privilege as it relates to displacement of those junior in seniority on the sides of preferred assignments. There was no violation of this rule.

It should, of course, be understood that there is a distinguishing difference between a vacancy or vacancies in a side or sides of a preferred run and the discontinuance and re-establishment of the run itself.

We find that for the purpose of discontinuing or re-establishing a preferred run it should be treated as a unit, which includes all sides thereof, although, in accordance with Rule 31 of the effective Agreement, when established or re-established each side thereof should be separately bulletined.

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 Rules of the effective Agreement between the parties have not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary

Dated at Chicago, Illinois, this 23rd day of October, 1947.