

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

H. Nathan Swaim, 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 R. B. Wagner of the Tampa District, that The Pullman Company violated Rules 7, 22 and 23 of the Agreement between The Pullman Company and its conductors when the Company declined to credit and pay Conductor Wagner 7:30 hours, a minimum day, instead of 2 hours, for the following deadhead trips:

- 10-8-45 Report Tampa 5:15 P.M. DH to St. Petersburg Fla. Arr. 7:15 P.M. Elapsed time 2 Hrs. Paid 2 Hrs. Due 5:30 Hrs.
- 10-10-45 Report St. Petersburg 9:40 A.M. DH to Tampa. Arr. 11:40 A.M. Elapsed time 2 Hrs. Paid 2 Hrs. Due 5:30 Hrs.
- 11-7-45 Report Tampa 5:15 P.M. DH to St. Petersburg. Arr. 7:15 P.M. Elapsed time 2 Hrs. Paid 2 Hrs. Due 5:30 Hrs.
- 11-9-45 Report St. Petersburg 10:00 A.M. DH to Tampa. Arr. 12:00 N. Elapsed time 2 Hrs. Paid 2 Hrs. Due 5:30 Hrs.
- 4-11-46 Report Tampa 5:15 P.M. DH to St. Petersburg. Arr. 7:15 P.M. Elapsed time 2 Hrs. Paid 2 Hrs. Due 5:30 Hrs.

Total time due—27 hours 30 minutes.

EMPLOYEES' STATEMENT OF FACTS: There is in evidence an Agreement between The Pullman Company and 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 case are as follows:

Prior to September 1, 1945, the carrier established a regular conductor operation between St. Petersburg and Jacksonville, Florida, on Seaboard Air Line Trains Nos. 2 and 1, and designated it as Line 2733. The Operation of Conductors Form 93.126, effective September 1, 1945, shows that three conductors were required to fill this assignment and that St. Petersburg was the home terminal and Jacksonville was the opposite terminal of the run. Conductors assigned to this run operated on the following schedule:

Report St. Petersburg for the outbound trip, 1st day, 7:15 P.M., depart 8:00 P.M. Arrive Jacksonville, 2nd day, 6:00 A.M. Released from duty 7:15 A.M. Layover 13:30 hours.

Since the present deadhead trip in either direction in connection with assignment in regular Line 2733 (2742) represents approximately the two hours originally allotted by Management to the extra conductors of the Tampa District and to Wagner for the trips specified in his claim, the Company submits that Wagner was properly compensated for the trips in question.

Inasmuch as there has been no violation of Rules 7, 22, 23 or any other rule of the Agreement effective September 1, 1945, the Company submits that the claim of the Organization in behalf of Conductor Wagner is without merit and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The sole question presented by this case is whether an extra Conductor filling a regular assignment shall be paid for a minimum of seven and one-half hours or actual hours (less than 7½) for deadheading immediately preceding or following a regular assignment.

In this case the Organization contends that deadheading, paid on an hourly basis, can not under Rules 7, 22 and 23 of the Agreement be coupled or combined for payment with service on a regular assignment paid on a daily basis. The Carrier contends that such payment is permissible where the Conductor is not released between the two services.

The Claimant here was required to deadhead from Tampa, his home station, to St. Petersburg, an outlying point, to make a round trip on a regular assignment between St. Petersburg and Jacksonville and then on his return to St. Petersburg to again deadhead to Tampa. He was paid for three days for this service on the regular assignment and was paid two hours for deadheading each day between St. Petersburg and Tampa, a trip which by bus took 45 minutes. The Organization contends that for each deadhead trip he should have been paid for 7½ hours under Rule 23.

The record does not show clearly whether Claimant traveled between Tampa and St. Petersburg by bus or by his own automobile. It seems to be admitted that whichever mode of conveyance he used, the time of 2 hours allowed was more than sufficient to cover his actual time. The distance by road between the two cities is only twenty miles.

During the time here in question the Carrier used the following form of Assignment to Duty slips assigning the Claimant:

"Report Tampa, 5:15 P. M. Deadhead St. Petersburg for Line 2733, SAL Train No. 2, reporting 7:15 P. M. Two (2) hours continuous deadhead time St. Petersburg to Jacksonville and return Tampa. The destination of this trip is Jacksonville and return."

Later, after this claim was filed, the Carrier used the following form:

"Deadhead to St. Petersburg on Bus leaving Union Bus Station 5:25 P. M. to protect Line 2742, St. Petersburg-Jacksonville, SAL No. 2, reporting St. Petersburg 7:45 P. M., as per attached itinerary. Continuous time Tampa to Jacksonville. On return from Jacksonville you will deadhead to Tampa on Bus leaving St. Petersburg 9:00 A. M. or first Bus leaving St. Petersburg after your arrival that point."

While these forms are different it is our opinion that the Carrier in the use of each form intended to show continuous assignment from Tampa to Jacksonville and from Jacksonville to Tampa.

The question for our decision then is whether such a continuous assignment including deadhead service and service on a regular assignment can be so coupled for purpose of payment and the employe be paid for only elapsed time in deadhead service.

Rule 7 provides as follows:

"RULE 7. DEADHEAD SERVICE. Conductors deadheading on passes or cars on Company business (except in connection with witness service) shall be allowed credit for actual time up to 11¼ hours for each 24-hour period from time required to report, with a minimum credit of 7½ hours where overnight trips are involved."

This Rule provides only for credit for actual time deadheading except in cases of traveling for witness service and where overnight trips are involved.

Rule 22 provides for pay for all hours credited for deadheading.

Rule 23 provides as follows:

"RULE 23. 7½ HOUR MINIMUM PAYMENTS. Conductors in irregular road service or deadheading on passes or with equipment or in combinations of any such services who perform less than 7½ hours' service from report time until released shall be credited and paid not less than 7½ hours, a minimum day."

Question 1 and Answer 1 under Rule 23 expressly interprets the Rule as providing that deadhead trips of less than 7½ hours and irregular road service may be coupled and the combined service treated as a single movement where the Conductor is not released between the services.

A consideration of Rules 7, 22 and 23 and the examples cited in connection with them leads us to conclude that regular road service may be combined with deadhead service and treated as one movement where the Conductor is not released but is paid for continuous time; that Rule 23 was intended only to furnish a minimum for payment in case of disconnected irregular road service and deadheading for periods shorter than 7½ hours.

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 Claimant was properly compensated for the service in question.

AWARD

The claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 19th day of January, 1948.