

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

James M. Douglas, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD TRAINMEN

THE NASHVILLE, CHATTANOOGA AND ST. LOUIS RAILWAY

STATEMENT OF CLAIM: Claim for a minimum day for extra or emergency dining car steward who stood to be used on each date dining car operated without a steward on trains 105-5 and 6-106, known as "The City of Memphis", since May 17, 1947, on which date this train made its initial trip.

JOINT STATEMENT OF FACTS: Effective May 17, 1947 a new coach train known as "The City of Memphis" was put in service between Memphis, Tennessee and Nashville, Tennessee, distance 239 miles, making a round trip daily.

This train operates over two sub-divisions on the following schedule:

No. 105	Leave Memphis	8:05 A. M.)	P&M
	Arr. Bruceton	11:05 A. M.)	Division
No. 5	Leave Bruceton	11:10 A. M.)	Nashville
	Arr. Nashville	1:05 P. M.)	Division
No. 6	Leave Nashville	2:40 P. M.)	Nashville
	Arr. Bruceton	4:35 P. M.)	Division
No. 106	Leave Bruceton	4:40 P. M.)	P&M
	Arr. Memphis	7:40 P. M.)	Division

Under date of May 9, 1947, the Manager of Dining Cars issued Bulletin No. 150, reading:

"ALL COOKS, WAITERS, AND WAITERS IN CHARGE.

Effective with arrival No. 6-106, on May 16, 1947 at Memphis, Tenn. The Cafe Car on this run will be abolished, and Waiter In Charge, 1st Cook, Waiter, now on this run will be abolished.

Effective May 17, 1947, the new train 'The City of Memphis' will be put in service on Trains 5 & 6, Operating from Memphis, Tenn., to Nashville, Tenn. and return each day. This new Train will use on this run a Dining and Tavern Lounge Car combined into one car.

The following jobs on this run between Memphis, Tenn. and Nashville, Tenn. Trains 5 and 6 'The City of Memphis' are hereby advertised.

1 Waiter In Charge of Dining Car, to be in charge of Dining Car only. Rate of Pay 192.40 per month of 240 Hours or 80¢ per Hour.

“*** the scope of the agreement between the *** Railway Company and its Dining Car Stewards embraces only service as steward on straight dining cars and does not cover service of any character on the various types of composite cars***

The current agreement contains no listing as *cafe-lounge-sleeping cars as coming under the provisions of said agreement*. For that reason the claim cannot be sustained.”

Assuming but not admitting that the Stewards' agreement is applicable to a car of the type here involved, the Carrier further contends that under the Scope Rule above quoted the agreement does not require the employment of a steward until and unless more than two waiters are regularly assigned to serve meals. As shown in the Joint Statement of Facts only two waiters are regularly assigned in Car 1200 for the purpose of serving meals.

Waiters-in-charge and Waiters are two distinct occupational classifications with different rates of pay and separate seniority, covered by agreement with the Dining Car Chefs, Cooks, Waiters-in-charge, Pantrymen and Waiters represented by Dining Car Employees Union, Local No. 478. The Stewards are represented by the Brotherhood of Railroad Trainmen.

As shown by Bulletin No. 150, quoted in the Joint Statement of Facts, the diner compartment of Car 1200 and the tavern-lounge compartment are operated as separate units, as though they were separate cars—each being in charge of a Waiter-in-charge.

Carrier submits it is therefore obvious that there has been no violation of the Scope Rule of the Stewards' Agreement and that Carrier is not obligated to employ a steward on this car.

(Exhibits not reproduced.)

OPINION OF THE BOARD: The Carrier put into service a new and modern streamlined coach train, the “City of Memphis,” operating between Memphis and Nashville. The train included a composite dining and tavern lounge car. A waiter-in-charge who serves no meals was placed in charge of the dining section of the car which was staffed by two waiters who serve meals. The tavern lounge section was likewise placed in charge of a waiter-in-charge who serves beer and soft drinks only. No meals are served in the tavern lounge. Each section of the composite car accommodates twenty-four persons. The sections are separated by a ceiling-high partition. In construction the sections have separate, independent identities.

The claimant asserts that under the Scope Rule a steward should be in charge of the entire car. The rule is:

“**RULE 1—SCOPE:** The following rules will govern the rates of pay, hours of service and working conditions of Dining Car Stewards used on dining cars operated exclusively on The Nashville, Chattanooga & St. Louis Railway, for the purpose of serving meals on its trains and on trains of other lines over which such cars operate. Stewards will be used on such cars where more than two persons perform service as waiters, except it is understood that on dining cars with waiters in charge, the occasional employment of additional waiters to take care of a special party or extra travel shall not be deemed a violation of this rule. Buffet and cafe coach cars or dining cars temporarily used in lieu of such cars will not be considered as dining cars as above defined.

NOTE: It is hereby recognized that the greater portion of the dining car service now and heretofore operated by The Nashville, Chattanooga & St. Louis Railway is an interline service in which other railroads are interested; that The Nashville, Chattanooga & St. Louis Railway does not have the right to elect to continue such operation, and that the operation of such dining car service may be taken over in whole or in part by some other Rail-

road or Railroads, in which event it is understood that stewards covered by this Agreement will have no claim to such service."

However, the rule appears to be plain that a steward is required to be assigned to a dining car operated "for the purpose of serving meals" only where more than two persons perform service as waiters. There are only two waiters serving meals in the dining section, so there is no obligation on the Carrier to assign a steward to the whole car unless the waiter-in-charge of the tavern lounge section can be regarded as a third waiter in a dining car. But, as we pointed out, no meals are served in the tavern lounge. Therefore, the waiter-in-charge of the tavern lounge is not acting as a third waiter in a dining car.

Composite cars appear to be contemplated by the rule. Buffet and cafe coach cars are expressly excluded from the rule. Even "regular" dining cars when used in lieu of such cars are excluded. The tavern lounge section does not become a "dining car" or part of one within the contemplation of the rule merely because it is part of a composite car which includes a dining section.

The determining factor, as we understand it, is the use which is made of the section, not the name given it. If, for instance, in addition to drinks meals would also be served in the tavern lounge section just as they are in the dining section, then the tavern lounge section would be a part of a dining car regardless of the name applied to it. But since the tavern lounge is not being used for the purposes of a dining car, the rule relied on by the claimant has no application.

Under the facts before us the claim must be denied.

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 employee involved in this dispute are respectively carrier and employee 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 did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 26th day of February, 1948.