

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

UNITED TRANSPORT SERVICE EMPLOYEES

CHICAGO, BURLINGTON AND QUINCY RAILROAD CO.

STATEMENT OF CLAIM: This claim is filed on behalf of that class of employees of the Dining Car Department of the Chicago, Burlington and Quincy Railroad Company presently classified as Waiter-Porter and formerly classified as Coach Porter on Trains Nos. 1 and 10.

We further claim that the above named class of employees subsequent to October 13, 1947, have received a reduction in pay as a result of Carrier's action of that date which reclassified them as Waiter-Porter.

Finally, we ask that these employees be properly classified under the current agreement and the Book of Rules published by the Carrier to conform to the work being performed. We ask that additional compensation be provided to meet the wage scale of the classification of Coach Porter from October 13, 1947, to the conclusion of this action, and that these employees' duties be confined to those normally assigned to Coach Porter.

EMPLOYEES' STATEMENT OF FACTS: The employees concerned by this action are those who are presently classified as Waiter-Porter and assigned to the "Rose Coaches" on Trains Nos. 1 and 10 only. The "Rose Coaches" on these trains are carried immediately ahead of the dining cars.

Early in 1947, the No. 6 waiters assigned to Trains 1 and 10, whose principal duty was to serve orders in sleeping cars, were removed from service on that assignment. Immediately thereafter, the Coach Porters assigned to the "Rose Coaches" were informed that they would be required to replace the No. 6 waiters to the extent that they would perform this "upstairs service" from the dining car to passengers in the Pullman cars which are carried behind the dining cars on these trains.

On April 8, 1947, the United Transport Service Employees was certified by the National Mediation Board as the duly accredited bargaining agent for these classes of employees. On May 10, 1947, Edward T. Bell, General Chairman of Local 311, UTSE, wrote to P. M. Scott, Superintendent of the Dining Car Department, requesting a conference on a total of twenty-two grievances (See Exhibits A and B), one of which concerned the use of Coach Porters as "upstairs men." After a lengthy exchange of correspondence between this organization and the Carrier, the parties finally met to discuss the entire calendar of grievances on June 30, 1947. Under date of July 2, 1947, Mr. Scott wrote to Mr. Bell confirming the result of the June 30th conference at which time the instant claim was rejected. (Exhibit C)

A further exchange of correspondence between Mr. Bell and B. B. Brown, Manager, Labor Relations, resulted in Mr. Brown's granting the date of August 19, 1947, for hearing the appeal on this case. No decision was forth-

of the controversy by this Division, and is a requirement which cannot be waived. For the parties cannot by their own act confer jurisdiction on this Division which the statute does not give it." (Emphasis supplied).

Petitioner's ex parte submission involves a question that has not "been handled in the usual manner up to and including the Chief Operating Officer of the Carrier." Hence there is no pending or unadjusted dispute between the parties for the Third Division to decide and it should dismiss the case for lack of jurisdiction.

Exhibits not reproduced.

OPINION OF BOARD: The record in this case is inadequate for resolution of the involved issues and the case should be remanded to the parties for further consideration and disposition thereof.

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 case be remanded to the parties in accordance with the Opinion.

AWARD

Case remanded 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 14th day of June, 1948.