

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: ****for and in behalf of George A. Porter who is now, and for a number of years past has been, employed by The Pullman Company as a porter operating out of the district of San Francisco, California. Because The Pullman Company did, on or about November 1, 1942, discontinue paying Mr. Porter the maximum rate of pay he was entitled to and that he had been drawing.

And further, because The Pullman Company did, on or about the above mentioned date, begin to deduct, and thereafter continue to deduct, from the current pay checks of Mr. Porter certain sums of money on the premise that it was acting in compliance with a certain award issued by your Honorable Board.

And further, because The Pullman Company did, on October 21, 1943, deny the claim filed for and in behalf of Mr. George A. Porter for the return of the sums of money deducted from his pay checks, and for the re-establishment of his pay at the maximum rate, the Over-Fifteen-Years rate, as of the date that the reduction of pay and deductions from his salary began.

And further, for such sums of money as have been deducted from the pay checks of Mr. George A. Porter to be returned to him and that his pay rate be re-established at the maximum rate of Over-Fifteen-Years as of the date it was reduced.

EMPLOYES' STATEMENT OF FACTS: Your Petitioner further set forth that it did, on or about September 18, 1943, supply the management with a list of porter employes in the San Francisco District whom, it maintained, were entitled to the "Over 15 years" rate of pay according to the rules of the contract between The Pullman Company and its Porters, Attendants, Maids, and Bus Boys. Inadvertently, among this list of employes' names which was submitted, the name of George A. Porter, a porter employe, operating out of the District of San Francisco, was included.

Your Petitioner further sets forth that when the management represented to you request for the adjustment of the pay rates of the several employes for whom the request was made, it was revealed that Mr. George A. Porter had been receiving the "Over 15 years" rate of pay since December, 1934, and thereupon, on or about the 1st of November, 1942, the management reduced the rate of pay of Mr. George A. Porter to the "5 to 15 years" rate of pay, and further directed that Mr. George A. Porter be required to remit to the Company a sum of approximately \$281.00, allegedly over paid to Mr. George A. Porter.

Your Petitioner further sets forth that it did, under date of August 26, 1943, file a claim with The Pullman Company, through its district represent-

same time an adjustment in the earnings of one porter unfavorably affected. There can be no question that the Organization procured for its members what it was claiming; namely, that the Company recognize certain Awards of the Third Division and begin computing the progressive rates of pay on the basis of seniority. The fact that Porter was requested by Management to repay \$194.52 and the fact that he gave his consent to make such restitution cannot be construed by the Organization as constituting a violation of any rule or rules of the Agreement.

Inasmuch as there has been no violation of Rules 2 (a) and 57 or any other rule of the Agreement, revised, effective June 1, 1941, the Company submits that the claim of the Organization in behalf of Porter is without merit and should be denied.

Exhibits Not Reproduced.

OPINION OF BOARD: Claimant G. A. Porter was employed in the Chicago Western District August 22, 1919, and was transferred to the San Francisco District June 6, 1925, thereupon losing all seniority in the district from which transferred and beginning seniority in the San Francisco District as of the latter date.

On December 15, 1934, upon completion of 15 years of service, he was given the rate of pay applicable to employees having service over 15 years, but subsequently, in connection with consideration of requests involving step rates of pay of a number of employees, the Carrier concluded that the claimant's rate of pay was determined by his actual service following his transfer to the San Francisco District June 6, 1925, less deductions authorized by Rule 2, thereby establishing that the Over 15 Years rates was not payable until June 15, 1940.

The record discloses the parties had been in agreement that claimant Porter was transferred to the San Francisco District and until some time in 1942 proceeded on the understanding that the rate of pay granted on December 15, 1934, upon completion of 15 years of service, was properly established.

The Division held in Award 1081 that service, less the authorized deductions specified in Rule 2, rather than seniority, should determine the application of progressive rates of pay. It is found here that the understanding of the parties adhered to in this case until 1942 was in accord with the holding in Award 1081 and the prevailing Agreement.

Under those circumstances the claim should be sustained.

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 claim will be sustained in accordance with the Opinion.

AWARD

Claim 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 24th day of June, 1948.