

Award No. 3957
Docket No. DC-4004

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD TRAINMEN

ILLINOIS CENTRAL RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of all Dining Car Stewards assigned on pool runs 29, 4, 11 and 12 for eight (8) hours each on each terminal to terminal trip of the pool assignment beginning May 5, 1947 and all subsequent dates they are required to perform service on said assignment.

EMPLOYES STATEMENT OF FACTS: Chicago is the home terminal of this pool assignment. Champaign, Illinois, is the away-from-home terminal for stewards assigned on Trains 29 and 4, and Freeport, Illinois, is the away-from-home terminal for Stewards assigned to Trains 11 and 12.

POSITION OF EMPLOYES: On April 23, 1947, the Superintendent of Dining Car Service, Mr. P. E. Bickenbach posted the following bulletin:

"Supplement #2 to Circular #29
(Revised April 9, 1947)

(Cancelling Supplement #2 dated Apr. 15, 1947)

Chicago 23, 1947
116-11 A-5

TIME SCHEDULES

EMPLOYES IN CHARGE:

The following time schedules will become effective April 27, 1947 and cancel schedule shown in Circular No. 29 dated April 9, 1947:

29-4-3-30-11-12

Train	Day	Time Reporting	Place Reporting	Time of Release	Place of Release	Time Allowances
29	1	2:30 PM	Chicago	8:45 PM	Champaign	6' 15"
4	2	5:15 AM	Champaign	9:15 AM	Chicago	4' 00"
3	2	5:00 PM	Chicago	9:45 PM	Champaign	4' 45"
30	3	3:30 PM	Champaign	8:40 PM	Chicago	5' 10"
11	4	3:30 PM	Chicago	8:45 PM	Freeport	5' 15"
12	5	5:00 AM	Freeport	8:45 AM	Chicago	3' 45"

HOME TERMINAL CHICAGO, ILLINOIS

/S/ P. E. BICKENBACH, Supt.
Dining Car Service

Supplement No. 2 to Circular No. 29
(Revised April 9, 1947)"

This is cited to show that the claim in 1940 referred to above run between Chicago and Fulton, which is identical in nature to the instant case, as turn-around service. Runs of this nature have been inaugurated subsequently on a turnaround basis without protest as is evidenced by the following:

Bulletin Number	Number of Positions	Date Effective	Trains	Between	Terminated Position	Date
18	1	8-17-41	13-4	Chgo-Chpn	1	7- 4-43
39	1	3-10-42	11-12	Chgo-Freeport	1	4-27-47
79	1	6-18-43	3-10	Chgo-Chpn	1	7- 4-43
82	2	7- 4-43	29-4-3-10	Chgo-Chpn	2	3- 1-46
104	1	5-17-44	11-12-29-4-3-10	Chgo-Freeport	1	3- 1-46
				Chgo-Chpn		
159	10	3- 1-46	1-3-4-2	Chgo-New Orleans	9	4-27-47
			29-4-3-10	Chgo-Chpn	1	4- 5-47
164	1	9-21-46	1-3-4-2	Chgo-New Orleans	1	11-30-46
			29-4-3-10	Chgo-Chpn		
178	1	12-19-46	1-3-4-2	Chgo-New Orleans	1	1-10-47
			29-4-3-10	Chgo-Chpn		1-10-47
*197	5	4-27-47	29-4-3-30-11-12	Chgo-Chpn		
				Chgo-Freeport		

* Protested bulletin.

Copies of above bulletins are attached as Carrier's Exhibit 1-A to H inclusive.

The Carrier contends that such assignments are in accord with the intent of provisions of the existing agreement, and to change the application at this late date would constitute and require a change in the agreement, which is not within the province of this Board to grant.

There is nothing in the agreement to require the carrier to administer any rule of the agreement to enhance the earnings of the employees. See First Division Award 11605. In fact Section 15 a of Part I, Interstate Commerce Act places an obligation on management to operate in the most efficient manner.

(Exhibits not reproduced.)

OPINION OF BOARD: Claimants are Dining Car Stewards assigned to pool runs out of Chicago. On trains 29, 4, 3 and 30, Champaign, Illinois, is the outgoing limit of their assignment. On trains 11 and 12, Freeport, Illinois, is the turnaround point. The question involved is the correct time allowances to be made on these runs.

The applicable rule is: "The minimum allowance for straightaway or turnaround trip from terminal to terminal in assigned service shall be eight hours. This rule does not apply to (1) a trip from a layover point to a terminal, (2) from one layover point to another layover point, or (3) to intermediate service performed" Article 2 (a), current Agreement.

The foregoing rule sets forth the definition of a basic day in assigned service. Ordinarily, a day is considered to be the 24-hour period commencing at the beginning of the employee's assignment. Consequently, a day for which 8 hours' work is guaranteed by Rule 2 (a) in the confronting cases, is the 24-hour period beginning at the time the employees commence work on their assignment in Chicago. If in going to and returning from Champaign and Freeport pursuant to assignment, more than eight hours are worked, the whole time should be credited to the employees. If less than eight hours are worked, the employee is entitled to the minimum guarantee of 8 hours. If, as in the case of the assignment on trains 3 and 30, the work extends into the second day, the employee is entitled to pay for the time worked on such day with a minimum of 8 hours.

The contention of the employees that they are entitled to eight hours going out and another eight hours for the return is not compatible with the

applicable agreement. An assignment in turnaround service which is completed in one day involves only one minimum guarantee of 8 hours. Of course, if the employe works on more than one day, the minimum guarantee applies to each day.

This interpretation is in accord with the practice pursued by the Carrier for a long period of time. The employes appear to have acquiesced in it. We think it represents the intention of the parties which can be changed only by negotiation.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That both parties to this dispute waived hearing thereon;

That the Carrier and the Employes involved in this dispute are respectively Carrier and Employes 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 Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 30th day of June, 1948.