

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 Troy Brailey, who is now, and for some time past has been, employed by The Pullman Company as a porter operating out of the District of Baltimore, Maryland.

Because The Pullman Company did, under date of August 20, 1948, deny the claim filed by the Brotherhood of Sleeping Car Porters for and in behalf of Troy Brailey in which the Organization contended that the Company had violated the rules of the agreement in effect between The Pullman Company and its porters, maids, attendants, and bus boys in that it denied the right of Porter Brailey to exercise his seniority and bid in on an assignment which the Organization maintains he was entitled to do under the rules of the contract.

And further, for Porter Brailey to be paid for any time that was lost as a result of the Company's denial to permit him to exercise his seniority as contended for by the Organization under the rules of the agreement.

EMPLOYEES' STATEMENT OF FACTS: Your Petitioner the Brotherhood of Sleeping Car Porters, respectfully submits that it is duly authorized to represent all porters, attendants, maids and bus boys employed by The Pullman Company for all purposes of the Railway Labor Act.

Your Petitioner further sets forth that in such capacity it is duly authorized to represent Troy Brailey, who is now, and for some time past has been, employed by The Pullman Company as a porter operating out of the District of Baltimore, Maryland.

Your Petitioner further sets forth that under date of July 26, 1948, a claim was filed by the Brotherhood of Sleeping Car Porters in the Baltimore, Maryland District for and in behalf of Troy Brailey in this case, because the Company had violated certain Rules of the Agreement by reason of the fact that it denied Brailey certain displacement rights that he is entitled to under Rule 44 of the above-mentioned Agreement.

Your Petitioner further sets forth that the specific information in this case is that Porter Troy Brailey was displaced in Line 2169, Baltimore to Jersey City and return on May 13, 1948. Porter Brailey ran extra for fifteen (15) days without exercising displacement rights. Under the Rule above referred to, Brailey has twenty (20) days in which to exercise displacement rights, but at the end of fifteen (15) days he became ill and wasn't able to return to work. When he returned to work on July 8, 1948, he attempted to exercise displacement rights and same was denied by District Superintendent J. L. Francis of Baltimore, Maryland.

OPINION OF BOARD: Porter Brailey, who was regularly assigned to Line 2169, was displaced May 13, 1948. Under provisions of Rule 44 he had twenty days from May 13, 1948, within which to apply for another assignment.

Following displacement May 13, 1948, he ran extra for fifteen days without exercising his rights and during the final five days of the twenty-day period, when he was off duty on account of illness, he expressed no desire for assignment. Upon his return to work July 8, 1948, he sought to exercise his displacement rights but was not permitted to do so because the twenty-day period had expired.

The parties are in disagreement as to Claimant's rights under Rule 44, which has been in effect since October 1, 1937, a period of approximately twelve years.

As the record contains no evidence as to how this Rule has heretofore been interpreted and applied, claim should be remanded to the parties for disposition in accord with prior interpretation and application of the Rule.

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 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 claim will be remanded for disposition by the parties in accordance with the Opinion.

AWARD

Claim remanded in accordance with Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 17th day of June, 1949.