

Award No. 4566

Docket No. PM-4469

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: **** for and in behalf of R. W. White, who is now and for some time past been, employed by the Pullman Company as a porter operating out of the Southern District of Chicago, Illinois.

Because The Pullman Company did, under date of June 19, 1948, deny a claim filed by this Organization for and in behalf of Porter White for the sum of \$20.19, which the Organization maintains was due and payable to Porter White for services performed by him during the month of October, 1947.

And further, because in denying this claim, the Company was in violation of the agreement between The Pullman Company and its Porters, Attendants, Maids and Bus Boys as set forth in the original claim.

And further, for Porter White to be paid the sum of \$20.19 above referred to.

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

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

Your Petitioner further sets forth that in line with his regular duties, Porter White was assigned to several lines during the month of August, 1947, and should have been credited for service during said month for 28 days or 226 hours and 25 minutes. At Porter White's rate of pay of \$192.90 per month, he should have been paid for 226 hours and 25 minutes at that rate or \$181.98. He drew \$161.79, and therefore was short \$20.19.

Your Petitioner further sets forth that under date of May 10, 1948, formal claim was filed by the Organization for and in behalf of Porter White for the above-mentioned sum of \$20.19. The Management, under date of July 19, 1948, rendered a decision in which it agreed to pay Porter White the sum of \$14.81, but refused to sustain the claim in its entirety, leaving a balance, the Petitioner maintains, to be paid to Porter White of \$5.38.

Your Petitioner further sets forth that appeals were taken from the decision of the Management in this case through the regular channels up to and including Mr. J. P. Leach, Assistant Vice President of The Pullman Com-

rate of pay is applied to an employe only when such employe operates part time in regular assignments in months not having 31 days. The Company fails to discover any language in Rule 2 that would permit Management to ignore the provisions of **Rule 5. Crediting Days in Road Service**, which Rule provides that a porter or attendant working part time in regular assignment shall be paid at his daily rate of pay, whether in a 28, 29, 30 or 31-day month.

Rule 3. Basic Month simply sets forth that 240 hours' work, credited to a calendar month as provided in subsequent rules of the Agreement, constitutes a basic month's service and that where a regular assignment is less than 240 hours' work per month, Management shall not deduct from the porter's established monthly wage for the undertime assignment. There is nothing in Rule 3 prohibiting the practice complained of here.

Rule 6. Crediting Hours in Road Service also favors Management's position in this dispute. The second paragraph of Rule 6 definitely conforms to the reasoning employed by the Company in this case. The paragraph relates to regular assignment where the days credited for the last trip in the month extend into the succeeding month, in which case the service hours in the trip are prorated by allowing eight hours' credit for each day credited in the month in which the trip was started and crediting the balance of the hours to the succeeding month. In the example given in Rule 6, a porter in a Chicago-Los Angeles assignment requiring 12 men and carrying hourage credit of 95 hours makes a lapover trip departing June 27 from the home terminal and returning thereto on July 4. Such employe is credited under **Rule 5. Crediting Days in Road Service** with three days in June and nine days in July. Thus, the method of crediting service in regular assignment is consistent with the method employed in crediting work in part-time regular assignment.

CONCLUSION

The Company has shown in this dispute that Rules 5, 13, 14, 15 and 17 support the Company's method of compensating employes performing work part time in regular assignment on the day-service basis. The language of these Rules and the provisions thereof conclusively reveal the weakness and inconsistency of the Organization's claim. Agreement with the Organization's position in this dispute would nullify in whole or in part the provisions of Rules 5, 13, 14, 15 and 17. Further, the Company has shown that Porter White was compensated in the manner prescribed by the Agreement for the month of August, 1947. The Rules cited by the Organization as lending support to it fail to sustain its claim that Porter White should have been compensated for service performed in regular assignment in August, 1947, at his hourly rate of pay.

The Company submits that the practice under the Agreement between The Pullman Company and this class of employes and the specific provisions of Rules 5, 13, 14, 15 and 17 uphold the Company's position. The claim of the Brotherhood of Sleeping Car Porters in behalf of Porter White is without merit and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Decision in this case is controlled by Award No. 4563. The claim was originally in the amount of \$20.19 but subsequently the Company allowed and paid a portion thereof so that the balance remaining as a claim herein is \$5.38.

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 Company violated the Agreement.

AWARD

The claim is sustained in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 21st day of September, 1949.