Award No. 4647
Docket No. PC-4439

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John M. Carmody, Referee

PARTIES TO DISPUTE:

ORDER OF RAILWAY CONDUCTORS, PULLMAN SYSTEM

THE PULLMAN COMPANY

STATEMENT OF CLAIM: The Order of Railway Conductors, Pullman System, claims for and in behalf of the conductors of the Atlanta District that The Pullman Company violated Rules 25 and 31 (Rules 38(a), 46 and 48 are also involved) of the Agreement between The Pullman Company and its Conductors,

1. when, under date of March 11, 1948, Cincinnati District conductors were assigned to operate the Pullman car in Central of Georgia Trains Nos. 18 and 17, known as the "Flamingo", between Atlanta, Georgia, and Albany, Georgia.

2. that extra Atlanta District Conductor Y. F. Throneburg, who was entitled to and available for the trip on March 11, 1948, the first day of its operation by Cincinnati District conductors, be compensated under the applicable rules for a trip Atlanta to Albany and for a return trip, Albany to Atlanta, and,

3. that the extra Atlanta District conductor entitled to and available for the service on each date subsequent to March 11, 1948, on which Cincinnati District conductors were used, be similarly compensated.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement between The Pullman Company and conductors in its service, effective September 1, 1945, Revised Effective January 1, 1948. Also, a "Memorandum of Understanding, Subject: Compensation for Wage Loss", dated August 8, 1945, a copy of which is attached as Exhibit No. 1. This dispute has been progressed up to and including the highest officer of the Carrier designated for that purpose, whose letter denying the claim is attached as Exhibit No. 2.

Prior to March 11, 1948, Cincinnati District conductors operated in L&N trains Nos. 17 and 18, known as the Flamingo, between Cincinnati, Ohio, and Atlanta, Georgia. The regular assignment of these conductors was as follows:

Line 3199 (Cincinnati-Atlanta) between Cincinnati and Atlanta

Trains Outbound L&N 17			Trains Inbound L&N 18	
Report for Duty	Cincinnati	7:25 P. M.	Atlanta	6:05 P. M.
Receive Passengers	"	7:40 P. M.	"	6:20 P. M.
Depart	"	8:00 P. M.	"	6:50 P. M.

CONCLUSION

The facts in this case as presented herein clearly support the Company's position. Management's right to extend established conductor runs to conform to changed operating conditions has been well-established over a period of years. **Rule 46. Assignment of Runs to Districts,** which is the controlling Rule relating to new service, contemplates that Management may extend existing runs and treat the extended operation as new service. The extension of the Cincinnati-Atlanta runs through to Albany, effective March 10, 1948, resulting from a change in operation of the "Flamingo" created a new service requirement between Cincinnati and Albany, which new service properly was awarded to Cincinnati District conductors under Rule 46. Thus, the procedure followed by Management conformed to Rule 46 of the Agreement. Rules 25 and 31, which the Organization cites as requiring the establishment of an Atlanta conductor run between Atlanta and Albany on the "Flamingo", did not abrogate Management's right to extend runs and treat the extended run as new service. Therefore, they have no application to the instant dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: Prior to March 10, 1948, Cincinnati District conductors assigned to run designated Line 3199 operated on the "Flamingo", L. & N. Trains Nos. 17-18, between Cincinnati and Atlanta, and among other cars, handled car of Line 7204, which operated between Cincinnati and Jacksonville. Southbound, the "Flamingo" consolidated at Atlanta with the "Dixie Limited", enroute Chicago-Jacksonville with a Jacksonville District conductor assigned, and the Cincinnati District conductor turned over Line 7204 at Atlanta to the Jacksonville District conductor for handling on the combined "Flamingo-Dixie Limited" from Atlanta to Jacksonville.

Northbound Line 7204 was handled on the combined "Flamingo-Dixie Limited" by the Jacksonville District conductor from Jacksonville to Atlanta and on the "Flamingo" by the Cincinnati District conductor from Atlanta to Cincinnati.

Effective March 12, 1948, the Central of Georgia Railway entered the operation of the "Flamingo" as a separate train beyond Atlanta to Albany, 209 miles south of Atlanta, which became the new consolidation point for the southbound "Flamingo" and "Dixie Limited" and the separation point for the northbound combined "Flamingo-Dixie Limited". Because of the extension of the "Flamingo" beyond Atlanta to Albany, the Jacksonville District conductor assigned to the "Dixie Limited" could no longer be operated in charge of Line 7204 between these two points. The conductor run on the "Flamingo" between Cincinnati and Atlanta was extended to operate from Cincinnati to Albany. The new run was awarded to Cincinnati District conductors under the provisions of Rule 46, ASSIGNMENT OF RUNS TO DISTRICTS.

The Organization challenges the Company's assignment of this Atlanta-Albany run to Cincinnati conductors because Atlanta is a seniority district where a seniority roster is maintained and Albany is an outlying point under the jurisdiction of Atlanta District. The Organization invokes Rules 25 and 31, and refers to Rules 38 (a), 46 and 48.

However important these Rules 25, 31, 38 (a) and 48 may be, the fundamental question here is whether Rule 46 gives the Company the right arbitrarily to determine which district the new run belongs to. Rule 46, Assignment of Runs to Districts, says, "In the establishment of new service, the seniority of the extra conductors in the districts involved shall determine which district shall furnish conductors for this service."

The Company says, "The rule is applied to extended runs as well as runs which are composed wholly of service not previously operated by conductors, both of which services are clearly new runs."

What do Rules 25 and 31, relied upon by the Organization, say? In Rule 25, Basic Seniority Date, we find, "seniority . . . shall be confined to the district where his name (conductor's) appears on the seniority roster," and in Rule 31, Bulletining of Runs, we find, "New runs . . . shall be promptly bulletined . . . in the district where they occur."

Where did the Atlanta-Albany run occur? The Organization contends it occurred in the Atlanta district.

The Company says, "In the instant case, it was the prerogative of Management to determine whether the Company should establish a local conductor operation on the 'Flamingo' between Atlanta and Albany or extend the existing run on the 'Flamingo' through to Albany". It awarded the run to Cincinnati "under Rule 46 inasmuch as no conductors' roster was maintained at Albany, an outlying point." Albany is an outlying point but it falls within the jurisdiction of Atlanta District. That fact is not in dispute.

We do not find the words "extended run or extended service", freely used by both parties in submissions and in argument, in any of the rules cited by either party, including Rule 46 on which the Company relies.

In justification for its action here the Company submits, in Exhibit J, nineteen examples of extended runs that were created and operated under Rule 46. We have examined all of them. In nine cases the extension was from one outlying point to another outlying point. In nine other cases the extension was from one outlying point to the home station of a district. The record indicates, and we do not find contradiction, that seniority in the terminal districts involved determined these nine assignments.

These examples are not opposite. The Organization does not challenge any of them as it challenges the assignment here. We shall not comment on the Washington-Charlotte-Atlanta example cited by the Organization, which is adequately discussed by both parties in the record, except to say the Company admitted error and made satisfactory restoration and readjustment.

We think a new run was created when the "Flamingo" operated as a separate train from Atlanta to Albany where it was consolidated with the "Dixie Limited". We can find nothing in Rule 46, Assignment of Runs to Districts, which gives to the Company the prerogative of determining which district shall get the run. That is determined by the seniority of the conductors in the district involved. Atlanta district was involved as was Albany, an outlying point under Atlanta's jurisdiction.

A point is made of operating economy. If the run had been awarded to Atlanta instead of to Cincinnati, the Company contends an additional conductor would have been required. Award No. 4560—"It is a responsibility of management to operate efficiently"—has been cited in behalf of the Company as justification for denying the run to Atlanta conductors. Operating efficiency arises out of intelligent, resourceful planning, intelligent and wholesome supervision plus intelligent and generous cooperation on the part of employes. All of these and other factors making for operating efficiency are important and should be possible of achievement within the framework of the Agreement or the Agreement should be modified or clarified to make them possible.

We conclude that the Atlanta-Albany run was improperly assigned by the Company to the Cincinnati District conductors.

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 Atlanta-Albany run was improperly assigned by the Company to the Cincinnati District conductors.

AWARD

Claims (1), (2) and (3) sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 9th day of December, 1949.