

Award No. 5588

Docket No. PC-5575

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Francis J. Robertson, 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 Conductor W. Wilson, Jacksonville District, that The Pullman Company violated Rule 38 of the Agreement and Memorandum of Understanding Concerning Assignment of Extra Conductors, when:

1. Under date of July 27, 1950, Conductor R. K. (K.G.) Holt, San Antonio District, was given an assignment by a representative of the Jacksonville District to deadhead from Jacksonville to Wilmington, N. C., for a special service movement to Ranch House, California.

2. Because of this violation, we now ask that Conductor Wilson be compensated for the trip performed by Conductor Holt.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement between The Pullman Company and Conductors in the service of The Pullman Company, dated September 1, 1945, revised January 1, 1948. Also, Memorandum of Understanding Concerning Assignment of Extra Conductors, effective September 22, 1947, found at pages 58-59 of the Agreement. This Rules Agreement and Memorandum of Understanding will be considered a part of this Statement of Facts.

Various rules thereof may be referred to herein from time to time without quoting in full.

Copy of Memorandum of Understanding, subject: "Compensation Wage Loss" dated August 8, 1945, is attached as Exhibit No. 1.

This dispute has been progressed in accordance with the Agreement. Decision of the highest officer designated for that purpose, denying the claim, is attached as Exhibit No. 2.

The essential facts necessary to a determination of this dispute are as follows:

Conductor R. K. Holt, San Antonio, Texas District, arrived at MacDill Air Base, which is a short distance from Tampa, Florida, on the morning of July 27, 1950, in extra service. Conductor Holt was instructed to deadhead from MacDill Air Base to Tampa, arriving 10:15 A. M., July 27.

CONCLUSION

The facts of record in this dispute clearly support the premise upon which the Company rests its case. When no extra conductors of the Wilmington Agency were available for the assignment in Main 2632, the Company was privileged under the provisions of Rule 38 (a) to give that assignment to any conductor who could be made available for the assignment. Consequently, in giving the assignment to Conductor Holt the Company did not deprive Conductor Wilson of any work he was entitled to perform.

Further, the fact that Conductor Holt was deadheaded from Jacksonville to Wilmington for the assignment in Main 2632 did not violate any rule of the Agreement. On the contrary, Question and Answer 7 of Rule 38 expressly permits the Company to deadhead a foreign district conductor from one district to another in other than a direct route toward his home station for service after all available extra conductors of the district to which he has been deadheaded have been used.

The claim of the Organization that Conductor Wilson should have been given the deadhead trip, Jacksonville to Wilmington, and the service trip, Wilmington to Ranch House, lacks merit. The claim should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Conductor Holt, an extra conductor of the San Antonio District, arrived in Tampa, Fla., on the morning of July 27 after completing a trip from San Antonio to MacDill Air Base, a short distance outside of Tampa. At Tampa he was assigned to deadhead to San Antonio via Jacksonville. Upon arrival in Jacksonville he was assigned to deadhead to Wilmington, N. C., for use in special service out of Wilmington to Ranch House, California. Employees file claim on behalf of Conductor Wilson of the Jacksonville District asserting that he was entitled to the service. It is not disputed that there were no extra conductors available in Wilmington at the time this assignment was made.

Employees assert that the action of the Carrier in assigning this special service move to Holt was a violation of Rule 38 and a Memorandum of Understanding concerning the application of Paragraph (c), Rule 38.

We deem it unnecessary to devote much time to a discussion of Rule 38. Suffice it to say that Rule 38 and the Memorandum of Understanding relate to the handling of extra work arising in a given district and the manner of its assignment to Conductors in that district. The fact that the deadhead service to Wilmington was initiated at Jacksonville does not mean that the work arose at Jacksonville. That is apparent from the language and examples given in Rule 38. The Employees assert a practice in connection with the "borrowing" of conductors from another district supports the claim. That practice is not substantiated, however. In fact, it is refuted by the General Chairman's testimony before the Emergency Board which heard a rules dispute between the parties resulting in the 1951 Agreement. That testimony is cited by the Carrier and it is a clear indication that under Rule 38 it is permissible to deadhead a foreign district conductor from a point to another point, not on a direct route home, and use him out of that second point when all extra conductors having seniority at the second point have been used. It is obvious that the claim is without rule support and must, therefore, be denied.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 14th day of December, 1951.