

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

UNITED TRANSPORT SERVICE EMPLOYEES
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

STATEMENT OF CLAIM: Rule 2 of the rules agreement covering Dining Car Employes of the Chicago, Burlington and Quincy Railroad Company was violated on December 7, 1951 when Dining Parlor Car #306 was replaced with Coach Cafe Car #350 on Trains 31-32 between Caspar and Alliance, Nebraska. Notice No. 113 cancelled assignments for two crews, consisting of Waiter-in-Charge and Chef, Class C, on Trains 31 and 32 between Caspar and Alliance, and Schedule No. 94 advertised for bids for Coach Cafe Cook and Coach Cafe Waiter-in-Charge for service on Coach Cafe Car #350 on these trains.

The above action resulted in a unilateral reduction in pay for the employees involved in violation of Rule 2 of the controlling agreement and the Railway Labor Act.

Claim is for the reclassification of the above assignment on Trains 31 and 32 and the payment of the difference in wages of all employees concerned between the Class C rates and the Class E rates.

EMPLOYEES' STATEMENT OF FACTS: Since January 1, 1950 the Burlington has operated a Dining Parlor Car manned by a Waiter-in-Charge and a Class C Chef on Trains 31 and 32 between Alliance, Nebraska and Caspar, Wyoming. This situation became effective with the consummation of the existing rules agreement, the effective date of which was January 1, 1950.

Rule 2 of the current agreement, in the portion applicable to Class C runs, clearly specifies the trains on which dining car service designated as Class C will be operated. Among the trains so specified are Trains 31 and 32. From January 1, 1950 until December 7, 1951 the Carrier observed this provision of the agreement.

On December 7, 1951 Carrier replaced Dining Parlor Car No. 306 with Coach Cafe Car No. 350 on Trains 31 and 32. At that time the employees assigned to these trains, because of this violation of Rule 2, suffered pay reductions as follows: The cooks, formerly classified as Class C chefs, but now classified as Coach Cafe Cooks, have their pay reduced from a minimum of \$37.20 to a maximum of \$49.20 per month; the Waiters-in-Charge have their pay reduced from a minimum of \$7.50 to a maximum of \$15.00 per month.

The claim was filed originally with the Supervisor of Crew Personnel on December 14, 1951 and declined by Mr. W. E. Angier, acting for the Assistant to Vice President on July 8, 1952. On September 5, 1952 the

Briefly summing up its position, the Carrier has shown that the declination of the Carrier's highest designated office was rendered on July 8, 1952 (Carrier's Exhibit No. 1), and that the time limits for prosecuting this claim further expired on September 6, 1952. Should the Petitioner insist final declination was not given until September 12, 1952, the time limit expired on November 11, 1952, and further procedure was still not invoked in time to comply with Ruly 25(b) of the agreement.

Since this claim was not progressed in accordance with the time limits of the agreement between the parties, it must be dismissed as being outside the jurisdiction of the Third Division.

In view of the fact that this objection appears invulnerable, to avoid unduly burdening the record no argument has been directed to the merits of this claim. Should the Board hear a contention by the Employees which is unknown to the Carrier at this time, and in some manner decide that the time limits have not been violated herein, the Carrier reserves the right to plead the merits of this case.

* * *

The Carrier affirmatively states that all data herein and herewith submitted has previously been submitted to the Employees.

(Exhibits not reproduced.)

OPINION OF BOARD: Assuming, as argued by the Employees, that Carrier finally declined this claim on September 12, 1952, more than sixty days were permitted to elapse before invoking the service of the Board; therefore, the dispute is not properly here.

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 the dispute was not submitted within the time limit prescribed in Rule 25 (b).

AWARD

Case dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 30th day of June, 1953.