

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Emmett Ferguson, 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 J. B. Wheeler, Kansas City District, that:

1. Paragraphs (e) and (a) of Rule 38 of the Agreement between the Company and its Conductors were violated by the Company on September 15, 1950 when the Company assigned Conductor R. S. Brundage, New York District, from Kansas City to Washington on MP Train No. 2/14.

2. Conductor J. B. Wheeler, Kansas City District, be credited and paid under the appropriate rules of the Agreement for the trip departing Kansas City to Washington, D. C.; on MP Train No. 2/14.

EMPLOYES' STATEMENT OF FACTS:

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On September 14, 1950, Conductor R. S. Brundage, New York District, reached Omaha en route deadhead Los Angeles to New York City.

Omaha was a point on a direct route between Los Angeles and Conductor Brundage's home station.

At Omaha on September 14, Conductor Brundage was given an assignment in extra road service Omaha to Kansas City on CB&Q Train No. 22. Conductor Brundage performed this assignment and was released in Kansas City on September 15, 1950.

Kansas City was **not** a point on a direct route—Los Angeles to Omaha to Conductor Brundage's home station (New York City).

On September 15, 1950 Conductor Brundage was assigned to extra road service Kansas City to Washington, D. C., departing Kansas City on MP Train No. 2/14.

Christy cited Questions and Answers 3, 6, 7, 8, and 9 of Rule 38. However, the position that Brundage was ineligible for a service assignment on a direct route from Kansas City toward his home station finds no support in the questions and answers cited by Mr. Christy because none of those questions and answers applies to the instant dispute.

Although, as previously stated, Questions and Answers 3 and 6 are not pertinent, these Questions and Answers do serve to show that it is permissible to use in service a foreign conductor who is available in a foreign district over a direct rail route to his home station without regard to the manner in which he became available in that district. Thus, these questions and answers contain no reference to the manner in which the foreign conductor arrives or becomes available in a foreign district, but simply show that an available foreign district conductor can be used in service over a direct route to his home station.

It has already been shown that Questions and Answers 7 and 8 do not apply to the assignment given Conductor Brundage at Kansas City on September 15, 1950, because they apply only to the assignment of a foreign district conductor who has been deadheaded from one district to another in other than a direct route toward his home station. Questions and Answers 7 and 8 expressly prohibit the use in service of a foreign conductor who has been **deadheaded** from one district to another in other than a direct route toward his home station before all available extra conductors of that district have been used. Clearly, if it had been intended to prohibit in like manner the use in service of a foreign conductor who had been operated in **extra service** from one district to another in other than a direct route to his home station, Questions and Answers 7 and 8 would so state. The fact that no such prohibition appears in the working Agreement is convincing evidence that none is intended.

Additionally, Question and Answer 8 has reference to a service assignment given a foreign district conductor over other than a direct route toward his home station. Since the assignment given Brundage at Kansas City on September 15, 1950, was over a direct route toward his home station, Question and Answer 8 cannot apply to that assignment.

CONCLUSION

In this submission The Pullman Company has shown that the assignment given to Conductor Brundage at Kansas City on September 15, 1950, was proper under the applicable provisions of Rule 38. No provision of Rule 38, which Rule the Organization alleges has been violated in this dispute, prohibited Management from assigning New York District Conductor Brundage to operate in extra service from Kansas City to Washington. Therefore, the claim should be denied.

The Company affirms that all data submitted herewith in support of its position have heretofore been presented in substance to the employe or his representative and made a part of the question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: The question to be determined here is whether it is permitted under Rule 38 to start a foreign district conductor on a deadhead trip via a direct route to his home station, then divert him on a service assignment and finally at the diverted terminal, start him again toward his home station in service to the exclusion of available extra conductors of that district.

Conductor Brundage of New York while at Los Angeles was ordered to deadhead home. At Omaha, (on a direct route to New York) he was assigned a service trip to Kansas City because there were no extra conductors at

Omaha then. The parties agree that this movement was permissible under the agreement. Upon completion of the service trip at Kansas City, Brundage was again available to be sent home via "a direct route." The trip to New York via Washington was assigned in conformity with Rule 38(e) and did not violate the example posed by Question 7 and its Answer; because Brundage had not been deadheaded into the district where he was finally assigned.

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 we find that there has been no violation of the rules and that the claim should be denied.

AWARD

The claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 19th day of October, 1953.