

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

PARTIES TO DISPUTE:

UNITED TRANSPORT SERVICE EMPLOYES

SOUTHERN PACIFIC COMPANY (Pacific Lines)

STATEMENT OF CLAIM: From April 1, 1953 until May 30, 1953 inclusive, Red Cap Station Porters' work was being performed at the Merced, California station of the Southern Pacific Company (Pacific Lines) by a Telegrapher who was ordered to perform such work by Train Master H. E. Hoyt, effective April 1, 1953. This action by the Carrier was in violation of Rule 9 (a) of the effective rules agreement between the Southern Pacific and this Organization, and it also violates the provisions of Paragraph (b) of Memorandum Agreement dated June 25, 1937.

Claim is that Red Cap Station Porter Ivery Young, who was entitled to such assignment, be compensated for the period April 1, 1953 to June 1, 1953 at the prevailing hourly rate of \$1.425 for eight (8) hours daily, and one and one-half times the hourly rate for the sixth and seventh days of the work-weeks and legal holiday of May 30, 1953.

Claim is also for compensation on the above basis for all other similarly situated Red Cap Station Porters who may have been affected by Carrier's action.

EMPLOYES' STATEMENT OF FACTS: The rules agreement between the Southern Pacific Company and this Organization was effective February 16, 1940 and last amended February 17, 1953.

Merced, California is a transfer point to Yosemite National Park on the Southern Pacific Company's Pacific Lines. Until approximately 1930 one Red Cap was regularly assigned at Merced to provide necessary service to passengers transferring at that point. Since 1930 the Red Cap assignment at Merced has been on a seasonal basis which varied from year to year, depending on the volume of traffic to and from Yosemite National Park. A Red Cap is generally assigned to duty at Merced during the months of April through September.

Local Chairman H. C. Calhoun of this Organization observed that work properly and traditionally performed by Red Caps was being performed by a Telegrapher, and on April 24, 1953 protested the Company's action by filing a claim to W. E. Eastman, Assistant Superintendent of Carrier's Western Division under date of April 24, 1953. This letter identified as Employees' Exhibit C.

services of a red cap station porter were required at Merced on any of those dates.

CONCLUSION

Carrier asserts that the claim in this docket is entirely without merit and requests that said claim, if not dismissed, be denied.

All data herein submitted have been presented to the duly authorized representative of the employees and are made a part of the particular question in dispute.

The carrier reserves the right, if and when it is furnished with the submission which may have been or will be filed ex parte by the petitioner in this case, to make such further answer as may be necessary in relation to all allegations and claims that may be advanced by the petitioner in such submission, which cannot be forecast by the carrier at this time and have not been answered in this, the carrier's initial submission.

(Exhibits not reproduced).

OPINION OF BOARD: The record reveals that the claim in this docket was not handled with the Carrier in accordance with the provisions of the Agreement.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That both parties to this dispute waived oral hearing thereon;

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 by reason of Petitioner's non-compliance with the Agreement, the claim will be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 27th day of October, 1954.