

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Carl R. Schedler, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES LOCAL 516

NORTHERN PACIFIC RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of JOINT COUNCIL DINING CAR EMPLOYEES LOCAL 516 on the property of the NORTHERN PACIFIC RAILWAY COMPANY for and on behalf of LEON DeBOZE, EUGENE CLARK and other employees similarly situated that they be reimbursed for the cost of sleeping accommodations paid for by them on each trip since July 18, 1956, Trains 25-26 at the away-from-terminal of Billings, Montana to and including Train 25 departing St. Paul, Minnesota, September 15, 1956; and that Carrier cease and desist from failure to provide sleeping accommodations for dining car department employees at the away-from-home terminal of Billings, Montana and provide sleeping accommodations in accordance with the established practice and working conditions on the lines of this Carrier of providing sleeping accommodations at away-from-home terminals.

EMPLOYEES' STATEMENT OF FACTS: Vacancy Notice TA-33 dated July 17, 1956 and corrected Vacancy Notice TA-33 dated July 19, 1956 established assignments for additional train attendants on Trains 25-26 operating between St. Paul, Minnesota and Billings, Montana. (Employees' Exhibits A-1 and A-2.) These vacancy notices establish St. Paul as the home terminal and Billings as the away-from-home terminal. Vacancy Notice TA-33 requires the additional train attendants to lay over at Billings, Montana, the away-from-home terminal, from 10:18 A. M., Mountain Standard Time, Second day, to 1:00 P. M., Mountain Standard Time, third day, a span of twenty-six (26) hours and 42 minutes. The Carrier has provided no sleeping accommodations for employees regularly assigned to this run laying over at Billings, Montana.

It has been the unvaried practice of this Carrier from the date of its establishment of its dining car department to provide sleeping accommodations for its dining car department employee at away-from-home terminals. This has been a continuous practice and working condition prevailing unbroken until the matters constituting the instant claim arose. The Carrier currently provides sleeping accommodations for its dining car department employees at away-from-home terminals where they are required to lay over overnight with the exception of the situation involved in the instant claim.

All data in support of the Carrier's position in connection with this claim has been presented to the duly authorized representative of the Employees and is made a part of the particular question in dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: The Organization does not cite in the record any provision or rule in the Agreement which it claims the Carrier has violated. Instead it asserts that the Carrier is liable because established practice and working conditions on the lines of this Carrier provide sleeping accommodations at away-from-home terminals. The proof offered in the record completely fails to support any such assertion. The evidence discloses that neither by tradition nor by agreement is the Carrier bound to reimburse employees for the cost of providing sleeping accommodations at away-from-home terminals, and such payment is what the Claimants seek in this case.

In support of its contentions the Organization maintains that sometime prior to 1937 such an arrangement was in effect but offers no proof in support of this allegation. It is undisputed that since 1937 these parties have had collectively bargained agreements, and the Agreements do not provide for reimbursing employees for expenses incurred in providing sleeping accommodations for themselves at away-from-home terminals. There is a rule (Rule 21) providing sleeping accommodations for certain employees when such accommodations are available on Carrier owned equipment. This rule neither explicitly nor implicitly provides for reimbursement of expenses incurred for sleeping accommodations, and the evidence indicates the rule was agreed to after the Organization had sought a rule providing for reimbursement of sleeping expenses at away-from-home terminals. The Carrier would not agree to the latter. The record indicates that the Organization is attempting in this case to obtain from the Board something it was unable to get by bargaining. This Board does not write new rules; it interprets existing rules.

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 there were no violations.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 25th day of October, 1960.