

Award No. 9807
Docket No. DC-9393

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Donald F. McMahon, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYES LOCAL 370

**THE NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of JOINT COUNCIL DINING CAR EMPLOYES' UNION, LOCAL 370, on the property of the NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO. for and on behalf of Thelma D. Wheeler and other employes similarly situated that they be paid hostess' pay, April 26, 1954; Trains 6-15 April 27, 1954, Train 8; April 29, 1954, Trains 14-29 and for such other times at which employes were instructed to work in non-existent classifications of attendants-in-charge on grill cars; and for such time as attendants in grill cars were employed as and performed the dual work of hostess and attendants on grill cars.

EMPLOYES' STATEMENT OF FACTS: Under date of May 4, 1954, Organization filed the instant claim with Carrier. (Employees' Exhibit "A") Under date of May 5, 1954 a supplemental claim arising out of the same series of violations were alleged and filed with the Carrier. (Employees' Exhibit "B").

Under date of June 22, 1954, Carrier's Assistant Superintendent, Dining Service, denied the claim in letter as set out as follows:

"163 Dorchester Avenue
South Boston 27, Mass.
June 22, 1954.

Mr. Dudley Washington
General Chairman
Dining Car Employees Union
200 West 135th Street
New York 30, N.Y.

Dear Mr. Washington:

In reply to your letter of May 4th making claim for difference in pay between waiter-in-charge rate and hostess rate for Thelma D. Wheeler for

Monday, April 26, 1954, Tr. 6-15

Tues., April 27, 1954, Tr. 8

Thurs., April 29, 1954, Tr. 14-29

Grill cars are a type of railroad equipment developed by the New Haven Railroad. So far as we know, the construction, equipment and type of services are unique. This equipment has been before the Board in cases resulting in Awards 867 and 5865. The description and exhibits in these records are here incorporated by reference.

Briefly stated, the cars are designed to give a simplified food and beverage service on trains where full dining or club cars are not warranted. The menu is of the "short order" variety, table linen is not supplied, and service to the customer is on a tray basis, similar to a cafeteria.

The car is manned in the service section by attendants who wait on customers, and by a hostess whose duties are like those of a steward, except that no money or liquor is handled. Attendants and hostesses are female personnel. They are included in the Agreement with Employees, a copy of which is on file with the Board and is by reference made part of the record.

On the specific dates of the claim no hostesses were available on the extra list to fill vacancies of hostesses on the trains mentioned. Accordingly, the cars went out with attendants only.

The contention is one of the attendants on these cars should be paid at hostess' rate.

POSITION OF CARRIER: This case arises out of an operating problem. When a car is without a hostess, what treatment should be given the attendants?

Attendants wait on customers and receive tips. They are waitresses. A hostess seats customers and supervises the waitresses. She does not receive tips. When a dining car is operated without a steward, a so-called waiter-in-charge is used whose rate of pay is higher than a waiter but lower than a steward. This results from two factors, (1) he receives tips, and (2) there are normally only one or two other waiters, in effect, a light car.

Drawing on this analogy on the dates of the claim Carrier, in what it considered a fair handling of the situation, paid one of the attendants at the waiter-in-charge rate. This attendant in each case was in receipt of tips, waited on customers, and had a light car. The analogy was complete.

Carrier submits an admittedly unusual situation was handled with fairness and equity. The claim should be denied.

All of the facts and arguments used in this case have been affirmatively presented to Employees' representatives.

OPINION OF BOARD: The record herein shows (1) that hostesses are assigned in charge of grill cars on this Carrier; (2) that, for the trips on Trains 6-15 on April 26, 1954, on Train 8 on April 27, 1954, and on Trains 14-29 on April 29, 1954, the respective hostesses assigned to grill cars on these trains were absent and none was available on the extra list to fill the vacancies; (3) that, for these trips, claimant attendants assigned to the cars were instructed to take charge of the cars, who also performed their regular duties as attendants thereon; (4) that, for this combination service performed on the trips mentioned, claimants received pay at the rate applicable to waiters-in-charge in addition to receiving tips, and (5) that, by the instant claim, Petitioner is requesting that the claimants be made whole.

Based on this record, claimant attendants should be paid the difference, if any, between the rates applicable to hostesses and the amounts they received, including tips, for the trips mentioned herein.

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 Agreement was violated and claim should be sustained to the extent indicated in the Opinion.

AWARD

Claim sustained to extent indicated in Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 2nd day of February, 1961.