

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Charles W. Webster, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES UNION, LOCAL 516

GREAT NORTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees Local 516 on the property of Great Northern Railway Company, for and on behalf of Chef Cook Glenn Gaasvig, that he be compensated account ten days' suspension effective November 22nd to December 1, 1956 inclusive, amounting to 66 hours and 30 minutes at claimant's current rate of pay account said suspension being in violation of agreement and arbitrarily and capriciously imposed upon claimant and that entry on claimant's personnel record account said discipline be expunged.

OPINION OF BOARD: The Claimant in this case was a chef on one of the trains of the Carrier. As a result of an investigation he was suspended from service for 10 days in that he allegedly filled an oral order and allowed food to leave the kitchen without having the cook's portion of meal check.

The record discloses that the waiter, the steward and the chef were parties to the formal investigation and the Carrier imposed the same penalty against all three parties.

The facts show that two operatives for the E. M. Burch Company were traveling this particular train and on the morning of November 10, 1956 one of the operatives gave to the pullman porter a breakfast order written on a telegram blank and asked that it be delivered to their room. This order read:

"One large Orange Juice, on dish Prunes, two orders corn flakes, two orders poached eggs on toast, one order of toast, One order Muffins, butter, Marmalade, two pots of coffee."

The record also shows that there is ample evidence, if believed, to sustain Carrier's position that the waiter served the operatives breakfast without ever showing them a guest check.

The question remains, however, as to whether the records sustains the position of the Carrier as to the chef serving food on the basis of an oral order.

The Carrier has placed great emphasis that their audit shows no check for the food in question which contains a notation of the surcharge for

delivery outside the dining room. The record however is completely barren of any evidence that the chef has any knowledge or responsibility concerning where food ordered is to be served.

The record also discloses that only the cooked food portion of the order of the operatives comes under the jurisdiction and responsibility of the chef and there is nothing in the record to show that he has any knowledge of what other items may be picked up from the pantry.

Finally at the investigation the following questions were posed and answered.

"Q — Mr. Cochrane questions Mr. Sommer.

The order that Mr. Miller put in shows one large orange juice, on dish prunes, two orders cornflakes, two orders poached eggs on toast, one order of toast, one order of muffins, butter, marmalade, two pots of coffee.

Am I correct in stating that the only thing the cook put out would be the poached eggs, toast and coffee, the rest would come from pantry?

A — That is correct.

Mr. Cochrane

The following check numbers indicate Poached eggs, toast coffee, muffins and coming from kitchen: 839348-7, 839346-63-346, 839349 covers bacon and eggs."

This being so, the ticket numbers listed above could well be the particular order in question. It is the judgment of this Division that there is an unexplained hiatus in the chain of events as set forth in the record. Without those missing links this record does not sustain the charge.

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.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 4th day of August, 1961.

DISSENT TO AWARD No. 10031, DOCKET No. DC-9671

Award No. 10031 is in error in sustaining this claim on the speculative phrase — “. . . the ticket numbers listed above could well be the particular order in question.”, and ignoring Claimant's statement that he was too busy to check the food leaving his kitchen as required by the rule he was charged with violating. For these reasons we dissent.

/s/ R. A. Carroll

/s/ P. C. Carter

/s/ W. H. Castle

/s/ D. S. Dugan

/s/ J. F. Mullen