

Award No. 10412

Docket No. PM-9942

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Thomas C. Begley, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS
(For and in Behalf of J. J. Washington, L. Rainey,
M. Darensbourg, et al)

THE PULLMAN COMPANY

STATEMENT OF CLAIM: *** for and in behalf of J. J. Washington, L. Rainey, M. Darensbourg, T. H. Kane, L. L. Hawkins, C. T. Gordon, A. A. Williams, N. Miller, J. A. Harrison, A. J. George, H. M. Simmons, H. M. Simmons, and J. V. Zeno, who are now, and for some time past have been, employed by The Pullman Company as porters operating out of the District of San Francisco, California.

Because The Pullman Company did finally, through Appeals Officer W. W. Dodds, deny the claims filed for and in behalf of the above-mentioned porters through Superintendent H. E. Lincoln of the San Francisco District, in which claims the Organization maintains that the Agreement between The Pullman Company and Porters, Attendants, Maids and Bus Boys employed by The Pullman Company, represented by the Brotherhood of Sleeping Car Porters, was violated in connection with the operation of the above-mentioned employes out of the San Francisco District in that it deprived said employes of certain work to which they were entitled under the rules of the above-mentioned Agreement particularly Rule 43(b).

And further, for the above-mentioned porter employes of The Pullman Company to be paid such sums of money as was lost by them in wages which they would have earned had not the Agreement been violated as set forth in said claims, which were filed for and in behalf of the above-mentioned porters through Superintendent Lincoln of the San Francisco District.

EMPLOYEE'S STATEMENT OF FACTS: Your Petitioner, the Brotherhood of Sleeping Car Porters, respectfully submits that it is duly authorized to represent all porters, attendants, maids and bus boys employed by The Pullman Company as it is provided for under the Railway Labor Act.

Your Petitioner further sets forth that in such capacity it is duly authorized to represent J. J. Washington, L. Rainey, M. Darensbourg, T. H. Kane, L. L. Hawkins, C. T. Gordon, A. A. Williams, N. Miller, J. A. Harrison, A. J. George, H. M. Simmons, H. M. Simmons, and J. V. Zeno, who are now, and for some time past have been, employed by The Pullman Company as porters operating out of the District of San Francisco, California.

Organization's position is based upon an erroneous interpretation of Award 7142, which Award, when analyzed, supports the Company's position.

The Organization's claim is without merit and should be denied.

All data submitted herewith in support of the Company's position have heretofore been submitted in substance to the employees and their representatives and made a part of this dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: The Carrier admits that it has violated Rule 43(b) of the effective Agreement.

The Carrier states that the claimants N. Miller, A. J. George and J. V. Zeno are proper claimants and their claims have been paid. Therefore, their claims will now be dismissed by the Board.

The Carrier has refused to pay the ten (10) other claims stating that those claimants were not entitled to the specific work that was mistakenly given to the regularly assigned Porter on claim dates.

The only issue that is involved herein is whether the ten (10) claimants who were extra Porters and who were designated by the Brotherhood as claimants were proper claimants entitled to compensation adjustments by virtue of Carrier's action in prematurely placing regular assigned Porters on the extra list.

The Brotherhood admits in Docket PM-9648 that the claims in that docket and the claims and issues in this docket are the same.

The claims in Docket PM-9648 were dismissed in Award 9687 and this Award was followed by Awards 9840, 9841, 9842, and 9843 which contained identical claims and issues.

This Board will follow Award 9687 and dismiss the claims of J. J. Washington, L. Rainey, M. Dorensbourg, T. H. Kane, L. L. Hawkins, C. T. Gordon, A. A. Williams, J. A. Harrison and H. M. Simmons who has two claims. The dismissal of these claims is based on Rule 46 of the Porters Agreement and not on Awards 3831 and 55 of Special Board of Adjustment No. 155 because these Awards had to do with and were based on the rules of the Conductors Agreement and not on the Porters Agreement.

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 Carrier did not violate the Agreement.

AWARD

Claims dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 8th day of March 1962.