

Award No. 10570
Docket No. PC-10953

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

D. E. LaBelle, Referee

PARTIES TO DISPUTE:

**ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN,
PULLMAN SYSTEM**

THE PULLMAN COMPANY

STATEMENT OF CLAIM: The Order of Railway Conductors and Brakemen, Pullman System, claims for and in behalf of Conductor L. R. Klein, Washington District, that on December 23, 1956 The Pullman Company violated Rules 22, 25, 28 and 61 of the Agreement between The Pullman Company and its Conductors when:

1. B&O train 2, which is covered by an Operation of Conductors Form, operated between Washington, D. C., and Jersey City, N. J., carrying Pullman Car "Gothic Tower", regular line 6111, without the services of a Pullman Conductor.

2. We now ask that because of this violation Conductor Klein be credited and paid under the provisions of Rule 21 of the Agreement, for the portion of the trip from Washington to Jersey City.

We also ask that he be credited and paid for a deadhead trip from Jersey City to Washington, of not less than 6:50 hours, under the terms of Rules 7 and 23 of the Agreement.

EMPLOYES' STATEMENT OF FACTS:

I.

There is an Agreement between the parties bearing the effective date of January 21, 1951 on file with your Honorable Board, and by this reference is made a part of this submission the same as though fully set out herein.

For ready reference and convenience of the Board, the most pertinent parts of Rules which are directly applicable or relate to this dispute are quoted as follows:

"Rule 21. Regular Assignments—Part Time. Conductors working part time on regular assignments shall be paid for a round trip the number of days there are conductors in the run as covered by bulletined schedule; less than a round trip shall be paid for proportionately.

of a porter-in-charge and that none of the rules cited by the Organization were violated. Therefore, the claim should be denied.

The Company asserts that all data submitted herewith in support of its position have heretofore been submitted in substance to the employe or his representative and made a part of the dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts are not in dispute. It appears that B&O Train 2, "The National Limited", operates from St. Louis to Jersey City as Line 2122 with Hoboken District conductors in charge, whose assignment thereto is covered by an "Operation of Conductors' Form".

Said Train 2 was scheduled to arrive at Washington on December 23, 1956 at 7:25 A. M. where it ordinarily would have picked up Car 103 from Line 6111 destined for New Jersey, departing from Washington at 8:00 A. M.

On December 23, 1956, B&O Train 2 ran late and did not arrive until 8:57 A. M. and departed at 9:40 A. M. in charge of Hoboken Conductor (Pullman) Del Bochman who completed the trip to Jersey City in his regular assignment.

That, due to B&O Train 2 late arrival the Carrier decided to operate a "make up" train to which Car 103 from Line 6111 was attached. To this car was assigned one Atkinson, as Porter in charge, which train left Washington at 8:00 A. M. December 23, 1956.

Organization's contention is that B&O Train 2 is covered by an Operation of Conductors Form; that Car 103, Line 6111 designated by Carrier as Gothic Tower, is a regularly assigned car in the conductors' bulletined assignment on Train 2 and, further, that the Carrier is not permitted to operate a porter-in-charge on a conductor run and that failure to assign a conductor violated Rules 22, 25, 38 and 61 of the Agreement.

Rules 22, 25, 38 and 61 of the Agreement read as follows:

"RULE 22. Extra Service. Conductors shall be paid at their respective established hourly rates for all hours credited each month for extra road service, deadhead on cars, deadhead on passes, extended special tours, station duty, witness duty, held for service, called and not used and all other non-road service. Time credited in excess of 220 hours each month shall be paid for at the rate of time and one-half.

Q-1. What is 'extra road service'?

A-1. 'Extra road service' is any revenue-producing trip, exclusive of an extended special tour, not covered by a conductor's regular assignment.

Q-2. Is the work of conductors operating on extra sections of trains and of helper conductors to be classed as 'extra road service'?

A-2. Yes.

Q-3. What is non-road service?

- A-3. Non-road service is any work, other than that designated or defined herein, performed at terminals or stations.
- Q-4. Shall any of the hours credited under this Rule be converted into days for pay purposes?
- A-4. No."

* * * * *

"RULE 25. Basic Seniority Date. The seniority of a conductor, which is understood in this Agreement to mean his years of continuous service from the date last employed, shall be confined to the district where his name appears on the seniority roster.

No deductions shall be made from the seniority of conductors for time spent on authorized leaves of absence, furloughs or sickness."

* * * * *

RULE 38. Operation of Extra Conductors. (a) All extra work of a district, including work arising at points where no seniority roster is maintained but which points are under the jurisdiction of that district, shall be assigned to the extra conductors of that district when available, except as provided in paragraphs (d) and (e)."

* * * * *

"RULE 61. Posting 'Operating of Conductors' Form. Forms 93.126, 'Operation of Conductors,' shall be posted in places accessible to those affected and a copy of each such form shall be furnished to the General Chairman of the Organization at the time posted. A run covered by an 'Operation of Conductors' form (93.126) shall remain in effect until canceled by bulletin."

For brevity, only the first paragraph of Rule 38 is reproduced here.

Organization in its brief states that "the issue to be determined here is whether the conductor run on B&O Train 2, which is covered by an Operation of Conductors' Form, was extra service and, therefore, subject to the option contained in Rule 64(b); or, was it a conductor run, making it mandatory for Carrier to assign a conductor."

Rule 64(a) and (b) of which sub-section (b) is referred to in the preceding paragraph, reads as follows:

"RULE 64. Conductor and Optional Operations. (a) Pullman conductors shall be operated on all trains while carrying, at the same time, more than one Pullman car, either sleeping or parlor, in service, except as provided in paragraph (c) of this Rule.

(b) Management shall have the option of operating conductors, porters in charge, or attendants in charge, interchangeably, from time to time, on all trains carrying one Pullman car, either sleeping or parlor, in service; except with respect to certain conductor operations as specifically covered in the Memorandum of Understanding re-executed at Chicago, Illinois, December 20, 1950."

Carrier has stated the issue herein to be as follows:

"The issue in this case is whether or not the working Agreement between The Pullman Company and its conductors effective January 1, 1951, required the Company to assign a conductor to the make-up train which carried but one Pullman car, the car on Line 6111, Washington-Jersey City on December 23, 1956."

Rules 22 and 38 apply specifically to extra service. It has been held by this Board that Rule 38 must be read in conjunction with Rule 64, as the latter rule applies to extra men as well as regularly assigned men. Award 5934.

Rule 61 was not violated because Train 2 was not cancelled on the claim date and departed from Washington in charge of Hoboken Conductor, Del Bochman, who thus completed the trip to Jersey City.

We are of the opinion that Rule 64(b) governs this particular claim and that this Rule did not require Carrier to assign a conductor to the make-up train carrying one Pullman car; that under the condition then existing Carrier had a right to assign a porter in charge, at its option.

Question has been raised by Organization as to the status of the employee designated for this trip as porter-in-charge. The record shows he was competent, was equipped for such duties and was paid the porter-in-charge rate for the services performed. If such designation were improper, it might be a matter of concern between the Carrier and the Organization representing the Porters, but we feel this plays no part in the issue we are here determining.

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

That the parties waived oral hearing;

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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of April 1962.