Award No. 11164
Docket No. DC-10782

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Phillip G. Sheridan, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 351

CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY

STATEMENT OF CLAIM: Time claim Joint Council Dining Car Employees Union Local 351 on the property of the Chicago and Eastern Illinois Railroad Company for and on behalf of C. R. Williams, E. L. Gamlin, J. O. Taylor, Adam Smith, Joe Baptiste, Feliz Ruiz, Lonnie Howard, Robert W. Jones, A. W. Wharton, W. H. Campbell, W. W. Roberts, T. S. Coleman, A. Newman, T. Jones, C. Rucker, Jesse Hunter, Will Osborne, W. J. McCafferty, Jesse Brown, H. A. Roper, John Aga, John Mandel, Jr., and others similarly situated shall be paid from January 26, 1958, their guaranteed wage for the month of January and for all other months subsequent thereto until they have been restored to their several positions on the property of the C&EI Railroad. This is a continuing claim subject to the restoration to service of the employes herein involved.

EMPLOYES' STATEMENT OF FACTS: Under date of February 7, 1958, Organization submitted the instant claim to Carrier's Superintendent Dining Cars (Employes' Exhibit A). On February 13, 1958, Carrier's Superintendent Dining Cars declined the claim (Employes' Exhibit B).

Under date of February 20, 1958, Organization appealed the declination of the claim to Carrier's Chief Personnel Officer, the highest officer designated on the property to consider such appeals (Employes' Exhibit C). On April 17, 1958, that official declined the claim on appeal (Employes' Exhibit D). On April 29, 1958, Organization advised claimant of its intention to bring the matter before this Board for adjudication (Employes' Exhibit E).

The facts herein are that on January 20, 1958, by Bulletin 481, Carrier abolished all positions assigned dining car Train 93, effective arrival Saturday, January 25, 1958. Effective January 26, 1958, Carrier consolidated Trains 93, 81, 80 and 54. The Hummingbird, Chicago to Evansville and return, prior to January 20, 1958, operated as Trains 93 and 54 Chicago Evansville and return. The facts indicate that Trains 93 and 54 were not abolished but consolidated with Trains 81 and 80 and are running as Trains 93 and 54 between Chicago and Evansville, Indiana, and return. Dining Car service on Trains 93 and 54 from Chicago to Evansville and return has been assigned by Carrier, by virtue of the above facts, to employes not covered by the agreement between the Organization and Carrier.

the dining car employes of other carriers to operate over the C. & E. I. It is further shown that the mileage accrued by C. & E. I. dining car employes over the lines of connecting carriers has far exceeded the mileage accrued by dining car employes of other carriers over the C. & E. I.

This past practice is clearly recognized by the provisions of Rule 1(b) Scope of the current agreement effective December 1, 1951. It is expressly stipulated therein that any inequities in this situation "* * * will be the subject of negotiation." In the instant case petitoner recognized the requirements of the situation by opening negotiations in conformity with the provisions of Rule 1(b). While the matter was being progressed in accordance with the provisions of Rule 1(b) the instant time claim was initiated.

The provisions of Rule 1(b) of the controlling agreement are clear and unambiguous. The past practice with respect to inter-line dining car service is clearly recognized. It is stipulated that any alleged inequity in such inter-line operation will be a subject of negotiation. By the express provisions of Rule 1(b) Scope, the union is limited in the steps it may take to correct any alleged inequities. Accordingly, the instant time claim is invalid and must, therefore, be denied .

The time claim as submitted by petitioner to the Board makes claim in behalf of certain named employes "* * * and other similarly situated * * *". There is in effect between the parties hereto an agreement dated August 21, 1954. Article V thereof contains a rule providing time limits for presenting and progressing claims or grievances. Rule 1(a) thereof provides that all claims or grievances must be presented in writing by or on behalf of the employe involved. This language has been interpreted to mean that the employe on behalf of whom the claim is filed must be named (see Award No. 40, Docket CL-9082, Special Board of Adjustment No. 170, also Fourth Division Award No. 1214). While the instant claim is without merit under agreement rules here controlling, under the time limit rules only the claim in behalf of the named employes may be considered by the Board.

All data contained herein has been handled with the representatives of the employes.

(Exhibits not reproduced.)

OPINION OF BOARD: The Carrier in the case at bar operated a through inter-line passenger service between Chicago and Miami, participating with other Carriers. C&EI to Evansville, Indiana; L&N to Nashville, Tennessee; NC&St.L to Atlanta, Georgia; AB&C to Waycross, Georgia; ACL to Jacksonville, Florida; and FEC to Miami. This had been done for many years.

On January 26, 1958 because of a decrease in patronage between Chicago and Southern points, and the existing patronage was destined for points South of Evansville, the local Dining Car service was discontinued as there was little service on the C&EI Railroad.

It is apparent that the Organization anticipated the above reduction of service as we read Carrier's Exhibit A. Also, a subsequent letter was mailed by the Organization to the Carrier on November 22, 1957, seeking time, date, and place for a conference to negotiate in conformity of Rule 1-B of the Agreement. A date for this conference was set, Janu-

ary 24th, and the Organization was to submit a proposal concerning the practical problems of permitting C&EI crews to participate in the interline service.

On February 7, 1958, the Organization submitted the claims which are the subject matter of this dispute.

Rule 1-B provides as follows:

> "It is understood that in line with past practice, the railroad will be privileged to run the employes over lines of connecting carriers, and permit Dining Car employes of other carriers to operate over the C & E I Railroad.
>
> "It is further agreed that should the mileage operated by employes of other carriers over the C & E I Railroad exceed the mileage operated by C & E I employes over other lines, this situation will be the subject of negotiation."

The Organization's conduct in seeking negotiation through the provisions of Rule 1-B is an admission that their interpretation of the rule was correct and we concur with their original action.

The terms of Rule 1-B are mandatory, they are clear and unambiguous. We possess no doubt about the meaning and intent of this rule. It permits Dining Car Employes of another Carrier to operate over the C&EI. This is an absolute right, however the Organization is required to negotiate if the mileage of Employes of other Carriers exceeds the mileage of C&EI employes over other lines.

This Board cannot negotiate for the Organization. We do not possess jurisdiction in such matters.

In view of our findings, further discussion is unnecessary.

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 Employes involved in this dispute are respectively Carrier and Employes 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.

AWARD

Claim dismissed as per Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1963.