

Award No. 11216

Docket No. CL-13334

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

UNITED TRANSPORT SERVICE EMPLOYES

MISSOURI PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: I. The Missouri Pacific Railroad Company violated and continue to violate Articles I and II Scope of the Agreement between the Carrier and the United Transport Service Employees, when under date of April 3, 1961, Carrier declared abolished all red cap positions and acquiesced, assigned and permitted other employees not covered by this agreement to perform red cap duties at San Antonio Station.

II. Concurrently with the discontinuance of all red cap positions, the Carrier installed a new method using "luggage carts" in the handling of red cap duties and assigned and permitted other employees; ticket agents, station porters, baggage porters and others not covered by the agreement, between the parties hereto, to use luggage carts to perform red cap duties.

We now ask Carrier to re-assign the red cap duties to those employees covered by the aforementioned agreement—between the parties hereto, and to reinstate these employees with all rights and privileges unimpaired and to compensate these employees for any and all loss of wages as a result of carrier's violative acts.

EMPLOYES' STATEMENT OF FACTS: On March 31, 1961 the Missouri Pacific Railroad Company discontinued two (2) positions held by red caps.

On April 3, 1961, the Carrier declared abolished the remaining six (6) red cap positions at San Antonio, Texas.

Op April 3, 1961, with the discontinuance of all red cap positions the Carrier installed luggage carts and assigned and permitted ticket agent, station porters, baggage porter, and other employees to perform red cap duties.

On April 17, 1961, we instituted proceedings to correct these violations of the agreement. (See Exhibit "A"),

On May 9, 1961, Mr. J. G. Sheppard, Superintendent rendered his decision and denied our claim. (See Exhibit "B").

On July 20, 1961, our appeal was made from the decision of Mr. J. G. Sheppard to Mr. D. E. Walker, Assistant General Manager. (See Exhibit "C").

merit to the Employees' contention and request that the four Red Cap positions discontinued April 3, 1961, should be reinstated to service and that the former incumbents of those positions be compensated for any loss of wages.

Based upon the foregoing record, it is the position of Carrier that:

1) This case should be dismissed for the reason that it is not properly before your Board, or

2) On the merits the contention of the Employees should be rejected and the accompanying claim accordingly denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts of records are not in dispute. As a result of a decrease in passenger business, and the purchase by the Carrier of self-service luggage carts for use by passengers, red cap positions were abolished at the San Antonio, Texas station. One red cap was employed during the first 3 months of 1962, and the record shows that the average daily revenue from the service of this red cap is less than cost to the Carrier.

The mere fact that a taxicab driver, and a baggage man or other employees of the Carrier have, on isolated occasions, assisted passengers in the handling of baggage does not prove that red cap work was being done. These individuals were not directed by the Carrier to do this work. They were not paid by the Carrier for this service. The individuals performed this service voluntarily at the request of the passengers and they never have held themselves out as red caps who are employed by or directed to perform the work by the Carrier. The Organization has failed to prove that any of these individuals performed the work of a red cap. Clearly, there is no merit to the claim.

Certain procedural issues have been raised by the Carrier. Since our decision is based on the merits, we do not believe it necessary to determine these procedural questions.

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 Carrier did not violate the Agreement.

AWARD

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 15th day of March, 1963.