

Award No. 11217
Docket No. CL-13409

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

David Dolnick, Referee

PARTIES TO DISPUTE:

UNITED TRANSPORT SERVICE EMPLOYES
NEW ORLEANS UNION PASSENGER TERMINAL

STATEMENT OF CLAIM: The New Orleans Union Passenger Terminal violated and continues to violate Rules I and II, Sections (A), (C) (D) and (E); *Scope of the Agreement between the Carrier and the United Transport Service Employees* when said Carrier declared abolished the regularly assigned positions of five (5) ushers, and assigned and permitted station porters, supervisors, special agents and other excepted employees not covered by the agreement, to perform usher duties.

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

EMPLOYES' STATEMENT OF FACTS: Subsequent to September 1, 1960, the New Orleans Union Passenger Terminal acted as follows:

Abolished the regularly assigned positions of five (5) ushers. Assigned and permitted station porters, supervisors, special agents and other excepted employees not covered by the agreement to perform the duties of ushering. They installed forty (40) self-service luggage carts and assigned the duties of working the rear-end of inbound trains to station porters.

Our union representatives, Messrs. H. T. Hale and S. Breaux initiated many conferences to discuss the aforementioned violations with Messrs. E. P. Capelle and C. J. Wallace, company representatives. On April 20, 1961, because of our many unsuccessful attempts to dispose of the impending violations at informal conferences, we instituted formal proceedings pursuant to Rule 22 of the Agreement between the parties. (See our Exhibit "A").

On April 27, 1961, again conference was held and on April 28, 1961 Mr. E. P. Capelle, Supervisor of Station Operations, denied our claim in its entirety. (See our Exhibit "B").

On May 1, 1961, our appeal was made from the decision of Mr. E. P. Capelle to Mr. C. J. Wallace, Terminal Manager for his consideration. (See our Exhibit "C"). On June 6, 1961 conference was held between Messrs. S. Breaux and C. J. Wallace; representatives of the union and company respectively. Mr. C. J. Wallace denied our claim and sustained the actions taken by Mr. E. P. Capelle. (See our Exhibit "D").

right to answer any data not previously submitted to the Carrier by the Organization is reserved by the Carrier.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts of record show that as a result of decrease in passenger business, and the purchase by the Carrier of self-service luggage carts for use by passengers, reductions were made in red cap force.

The Employees allege that following the reductions in the red cap force, other Employees not covered by the Agreement were assigned to perform usher service.

Rule 2(d) of the applicable Agreement clearly permits the performance of usher service by other station Employees, in addition to their other work. There is no proof in the record that supervisors, special agents and other excepted Employees have been assigned to perform usher duties. On the merits of the dispute, the claim will be denied.

The Carrier has raised certain procedural objections to our consideration of the dispute, but based on our decision on the merits we find it not necessary to pass on those objections.

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 15th day of March, 1963.