

Award No. 11546
Docket No. PC-11589

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Donald A. Rock, 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 The Pullman Company violated the Agreement between The Pullman Company and its Conductors, with special reference to Rules 42 and 32.

1. On April 2, 1958, Conductor P. R. Summerlin, Washington District, who was on temporary transfer to the Richmond District, requested to return to the Washington District. On April 5, 1958, Conductor Summerlin, in violation of the Agreement, was permitted to displace Conductor Klein, who was on temporary transfer, under the terms of Rule 42, to the Baltimore District.

2. Because of this violation, we now ask that Conductor Klein be credited and paid a minimum day (6:50 hours) for a deadhead trip Washington to Baltimore, and for all time earned by Conductor Summerlin while he was working out of Baltimore on a temporary transfer. Rules 37 and 39 are also involved.

EMPLOYES' STATEMENT OF FACTS:

I.

There is an Agreement between the parties, bearing the effective date of September 21, 1957, and amendments thereto 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 pertinent parts of Rules 32, 37, 39 and 42 are quoted:

"RULE 32. Resigning from Regular Assignments.

A regularly-assigned conductor may resign from his assignment by giving a 15-day written notice to his district representative,

CONCLUSION

In this ex parte submission the Company has shown that Rules 37 (d) and 42 (a) support the Company's position that Conductor Summerlin, who is senior to Klein, properly displaced Klein on temporary transfer in the Baltimore District. Also the Company has shown that Awards of the National Railroad Adjustment Board support the Company in this dispute.

The claim is without merit and should be denied.

All data submitted herewith in support of the Company's position have been submitted to the claimant or his representatives and made a part of this dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts are not in dispute. P. R. Summerlin and L. R. Klein were, respectively, senior and junior extra Conductors of the Washington District.

On March 16, 1957, senior Conductor Summerlin was awarded a temporary transfer to the Richmond District. Thereafter, on November 24, 1957, and while Summerlin was still away on temporary transfer, junior Conductor Klein was awarded a temporary transfer to the Baltimore District. Both such transfers were duly bulletined and awarded in accordance with the provisions of Rule 42 of the Parties' Agreement.

The Organization takes the position that Rules 42, 32, 37 and 39 of the Agreement were violated when Summerlin was permitted to displace Klein under the circumstances set forth above. The Company denies the violation of any rule and contends that such displacement was permissible under Rules 42(a) and 37(d).

In our opinion Rule 32 has no application under the facts here disclosed because it governs the resignation of a Conductor from a regular assignment in his home station. Conductor Summerlin who was on a temporary transfer did not have a "regular" assignment. Furthermore, since his temporary assignment in Richmond was discontinued, it cannot be said that he resigned therefrom.

Rule 39 does not apply to the present case. It governs displacement rights of Conductors from a district in which it becomes necessary to furlough Conductors. Such necessity did not here exist.

Rule 42(a) specifically states that the provisions of Rules 37(d) and (e) shall apply to the bulletining of opportunities to transfer, and further provides that 37(d) and (e) shall govern the displacement rights of a Conductor absent in service.

Rules 37(d) and (e) govern the determination of this dispute as it is specifically stated therein that a senior Conductor may displace a junior Conductor under the circumstances presented in this case. The claim is therefore denied.

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 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; 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 28th day of June 1963.