

Award No. 11649

Docket No. DC-11107

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Charles W. Webster, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES UNION, LOCAL 516

GREAT NORTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees' Union Local 516 on the property of Great Northern Railway Company

(1) For and on behalf of Porters-in-Charge Ellis Manning and Ralph Gardner and all other employees similarly situated, for 204 hours compensation each per month that they perform service on the assignment on Great Northern Trains Nos. 20, 19 and no layover days (relief days) are provided for them at the home terminal of St. Paul, Minnesota. This claim commences with the month of February 1958 and runs until such time that it is settled, and layover days are provided for said employees at their home terminal.

(2) That the Great Northern Railway Company cease and desist not providing layover days at the home terminal of St. Paul, Minnesota for the above named employees, assigned to Great Northern Trains Nos. 20 and 19; and commence providing layover days at the home terminal of this assignment in accordance with the established practices and working conditions of this assignment and all other Dining Car Department assignments on the line of this carrier.

EMPLOYEES' STATEMENT OF FACTS: On February 28, 1958, Organization submitted the instant claims to Carrier (Employees Exhibit A). Carrier's General Superintendent Dining Car Department denied the claims on March 11, 1958. (Employees Exhibit B.)

The claims were then appealed to Carrier's Vice President, the highest designated officer on the property to consider such appeal, on March 24, 1958, (Employees Exhibit C). On April 22, 1958, Organization again requested decision on appeal (Employees Exhibit D). Not until September 16, 1958, five months and twenty-three days after appeal was lodged with the appeal officer, was it denied by the official (Employees Exhibit E).

The facts in the instant claims are not in dispute. The facts as bearing on the issue of whether Carrier can make assignment of 30 or 31 calendar days with no relief days for Porters-in-Charge Trains 20 and 19, St. Paul to Duluth and return without violating letter agreement on the property, are:

1. One Porter-in-Charge is assigned to each Parlor Car in consist of Trains 20 and 19.

3. There is no rule in the controlling Agreement, nor is there any memorandum of agreement or letter of understanding between Carrier and the Organization whereby Carrier was, or is, required to provide layover days for porter-in-charge assignments.

4. Carrier was not required to confer or negotiate with the Organization prior to establishing new porter-in-charge assignments.

5. It has been a generally recognized principle and so held by all Divisions of the Adjustment Board that Carrier is free to adjust its service to meet the needs of the public and to effect practical economies in the absence of any contractual limitation thereon. No such restriction appears in the controlling and applicable Agreement.

For the foregoing reasons, the Carrier respectfully requests that the claim be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The facts in this case are simple. The Carrier rebulletined 2 positions in 1958 in regard to porter-in-charge assignments. The Organization claims that the rebulletining constitutes a violation of an alleged letter agreement entered into between the parties in 1952. These alleged letter agreements read as follows:

"Mr. Hector P. Vassar, General Chairman
Dining Car Employees Union, Local 516
525 Rondo Avenue
St. Paul 3, Minnesota

Dear Sir:

Referring to your letter of January 10 relative to complaint pertaining to the manning of parlor car run on 19 and 20:

This matter was discussed with you and Mr. Hall by Messrs. Deleen and Macdonnell on Tuesday, January 22, in Mr. Deleen's office, at which time it was agreed to increase the number of porters-in-charge by one or from three to a total of four, which would materially increase the layover at headquarters and it is our understanding that you agreed that this would satisfactorily dispose of the matter and that our file might be closed thereon.

Will you please advise if my understanding relative thereto is correct.

Yours truly,

/s/ M. C. Anderson
Assistant to Vice President"

* * *

"Mr. M. C. Anderson
Assistant to the Vice President
Operating Department
Great Northern Railway
St. Paul 1, Minnesota

Dear Sir:

I am in receipt of your letter of January 25th, 1952, File DC-1 relative to discussions held at the Commissary between Mr. McConnell, Mr. Dick Hall and myself, which discussions pertain to the setting up of new hours of service and a change in the general conditions of Dining car run 1920-23-24.

This matter was indeed disposed of satisfactorily and I wish to take this opportunity in behalf of myself and the employees on said assignment to thank you and your staff for disposing of this matter to the satisfaction of all parties concerned.

Again I say, thank you.

Yours truly,

/s/ Hector P. Vassar
General Chairman
Local 516"

While in the judgment of this Referee the letter agreement constitutes a valid amendment of the Collective Bargaining Agreement between these parties, however, the letter agreement does not support the claim as presented and therefore must be denied.

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 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 26th day of July 1963.