

Award No. 11900
Docket No. DC-11358

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Levi M. Hall, Referee

PARTIES TO DISPUTE:

**JOINT COUNCIL DINING CAR EMPLOYEES UNION,
LOCAL 516**

GREAT NORTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: This is time claim of Dining Car Employees' Union Local 516, on the property of Great Northern Railway Company, for and on behalf of Second Cooks R. Timm, E. Lindberg, D. Jansen, K. Riddick, A. Steinmetz, L. Cartony, M. Skogman, M. Atarian, J. Cane and T. Morris for the difference in the rate of Third Cook's pay and Second Cook's pay from October 31, 1957, until such time as they are properly paid, while assigned as Third Cooks to Ranch Car, Empire Builder, Trains Nos. 32 and 31 and perform the duties of Second Cooks.

EMPLOYES' STATEMENT OF FACTS: On November 19, 1957, Organization's General Chairman submitted the instant claim to Carrier's General Superintendent Dining Car Department (Employees' Exhibit A). On December 2, 1957, the Carrier's General Superintendent Dining Service declined the claim (Employees' Exhibit B).

On December 4, 1957, the instant claim was appealed to Carrier's Assistant to the President-Personnel, the highest designated officer on the property to consider such appeals (Employees' Exhibit C). On March 3, 1958, Carrier's Assistant to the President-Personnel declined the claim on appeal (Employees' Exhibit D).

On March 4, 1958, Organization's General Chairman advised that inasmuch as the Carrier was predicated its denial on the fact that the Second Cooks' work had disappeared, which was not in accord with the facts, that the matter would be submitted to this Board for resolution (Employees' Exhibit E).

The facts in this matter are that on October 21, 1957, Carrier issued its Bulletin No. 124, Ranch Car, Empire Builder Trains 32-31, cancelling Second Cook assignments (Employees' Exhibit F). On November 11, 1957 bid award was posted, awarding Third Cook assignments, Empire Builder, Ranch Car, Trains 32-31, to employees previously filling Second Cook assignment but now being employed at Third Cook rate (Employees' Exhibit G).

2. Bulletin No. 124 was issued in compliance with the applicable rules of the controlling agreement.

3. There is no rule in the controlling agreement, nor is there any memorandum of agreement or understanding between Carrier and the Organization whereby Carrier was, or is, required to assign second cooks to the kitchen crews of Ranch Cars.

4. Carrier was not required to confer or negotiate with the Organization prior to establishing the new kitchen crew assignments on the Ranch Cars effective October 31, 1957.

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 Carrier operated a train known as the Empire Builder between St. Paul, Minnesota, and Seattle, Washington. This train was operated in each direction daily, as Train No. 31, St. Paul to Seattle, and as Train No. 32, Seattle to St. Paul. Included in the consist of each of Trains 31 and 32 are two dining service units, one dining service unit designated as a Dining Car and the other as a Ranch Car. It is only the consist of the crews of the Ranch Cars with which we are here concerned.

Prior to October 31, 1957, the consist of the crews on Trains Nos. 31 and 32 in general was composed of a Chef Cook and Second Cook. However, in a notice dated October 21, 1957, the Carrier abolished all Second Cook assignments on the Ranch Cars on Trains Nos. 31 and 32.

On October 21, 1957, Carrier issued Bulletin 124 and this bulletin advertised for Third Cooks to occupy positions as such on the Ranch Cars on Trains Nos. 31 and 32. Effective October 31, 1957 the consist of each of the kitchen crews on these trains consisted of a Chef Cook and a Third Cook.

It is the contention of the Petitioner that the work of the Ranch Car personnel on the equipment in question has and does require two employes; that the work now performed by a Third Cook is work formerly performed by a Second Cook; it is Petitioner's further contention that the work of the Second Cook has not disappeared for if it had, there would now be need for a Chef Cook only; that it is apparent that Carrier is assigning Third Cooks work which has traditionally been performed by Second Cooks; that Carrier has unilaterally and arbitrarily abolished the Second Cooks positions and assigned the work of the Second Cooks to the Third Cooks in violation of the effective Agreement.

It is Carrier's contention that its action in abolishing the Second Cook assignments was brought about as a result of the following factors: Beginning

with October, 1957, the Carrier commenced the use of prefabricated meats, frozen vegetables and various package mixes; that all meat used in food preparation on the Ranch Car was pre-cut and pre-portioned; that the use of these pre-fabricated, pre-cut and pre-portioned meats, frozen mixes and so forth relieved the Chef Cook of much of his former work load and at the same time materially reduced the work loads of Second Cooks, to the extent that their main duties became those of washing dishes and keeping the kitchen clean; that with the adoption of these changes (heretofore noted) the need for Second Cooks disappeared. Carrier further contends that at the time Carrier adopted these changes, Carrier's volume of passenger business was materially reduced over what it had been before and as a consequence there was a substantial decrease in customer business on the Ranch Cars. Carrier contends that the consist of the kitchen crews in Ranch Cars were rearranged and/or changed by Management in strict conformance with Rule 13(i) of the effective Agreement between the parties.

Rule 13(i) reads, as follows:

"(i) CONSIST OF CREW AND DUTIES

"The consist of crews will be determined by the Management, consistent with service requirements, and the duties will be equitably assigned as between the members of the crew. Employees under this agreement will not be required to perform the duties of other classes of employees outside of the kitchen other than under urgent or unusual conditions."

The Scope Rule of this Agreement does not define the duties of a Second Cook or a Third Cook. The Carrier submits that the duty of Second Cooks has been traditionally to assist Chef Cooks in meal preparation and, in carrying out this function, Second Cooks have at times been assigned to perform the frying of meats, baking, general cleaning and at times the washing of dishes.

Carrier has also submitted that the duties of Third Cooks have been traditionally those which include the serving of hot breads, vegetables, taking patrons orders and relaying same to Chef Cook, washing dishes and general utility work. At no place in the record is there any denial that these are proper descriptions of the duties of Second and Third Cooks.

Through the adoption of the use of prefabricated meats, frozen vegetables and mixes, pre-cut and pre-portioned meats on the Ranch Cars, the duties were radically reduced so that the main duties became those of washing dishes, cleaning work, relaying orders to the Chef Cook and serving hot vegetables and hot breads, traditionally the work of a Third Cook. Since the function of a Second Cook no longer remained the Carrier was fully justified in abolishing the Second Cook positions on Ranch Cars. Carrier had not limited its right to abolish the positions but to the contrary has retained the right to determine the consist of crews, consistent with service requirements under Rule 13(i) of the Agreement. See Award 8885 (McMahon); Award 8828 (Bakke).

It was also contended by Petitioner that Carrier arbitrarily changed the working conditions of its employees contrary to Section 6 of the Railway Act in that it did not confer with the representative Organization prior to mak-

ing changes in assignments. The bulletin in the instant case was correct and the Carrier was not required, for any reasons, to confer with the Organization prior to issuing Bulletin 124. See Award 7172 (Cluster); Award 10600 (Dolnick).

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 has not been violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November 1963.