

Award No. 13484
Docket No, PC-14947

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

Levi M. Hall, Referee

PARTIES TO DISPUTE:

**ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN,
PULLMAN SYSTEM**

THE PULLMAN COMPANY

STATEMENT OF CLAIM: The Order of Railway Conductors and Brake-men, Pullman System, **claims for** and in behalf of Conductor F. E. Otto, Penn Terminal District, that the rules of the Agreement between The Pullman Company and its Conductors were violated, with especial reference to Rules 25 and 64, when:

1. On December 7, 1963, PRR train 121 **was** operated from New York City, N.Y. to Washington, **D.C.**, with two or more Pullman cars in service, without the services of a Pullman conductor.

2. Because of this violation, we now ask that Conductor Otto be **credited** and paid for an extra service trip New York City to Washington, D.C., under applicable rules, **i.e., 6**, 22 and 24, and for **a** deadhead trip Washington back **to** New York City, under the applicable rules.

EMPLOYES' STATEMENT OF FACTS: There is an Agreement **between** the parties, bearing the effective date of September 22, 1967, 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.

I.

Under date of December **7**, 1963, PRR train 121, **scheduled** to depart from New York City, **N.Y.** at **11:00** A.M., carrying two or more Pullman **in** service, operated without the services **of** a Pullman conductor, in violation of Rules **25** and 64 of the Agreement.

One of the sleeping cars originated in Boston, **Mass.**, and was destined to Washington, D.C. This ear is handled on New Bsvn train 169 between Boston and New York, and is scheduled to arrive in New York at **8:10** A.M., depart from New York on PRR train **115** at **9:30** A.M., and scheduled to arrive in Washington, D.C. at **1:20** P.M., **same** date.

On December **7**, 1963, **NH** train 169 was **late** arriving in New York, and the Boston-Washington car was placed on PRR train 121 with the New **York-**

(Exhibits not reproduced).

OPINION OF BOARD: From the record it appears that the **following facts are not** in dispute: Under date of December 7, 1963 PRR train 121, scheduled to depart from New York City, Penn Terminal District, at 11:00 A.M., carrying two or more Pullman cars in service, operated without the services of a Pullman Conductor as required by Rule 64 of the Agreement. One of the sleeping cars originating in Boston, Massachusetts, was destined to Washington, D.C., and was scheduled to arrive in New York at 8:10 A.M. and depart from New York on PRR train 116 at 9:30 A.M. On December 7, this train was late in arriving in New York and this Boston-Washington car was placed on PRR train 121 with a New York-Birmingham sleeping car, thus putting two cars in service of train 121 between New York and Washington. The Pullman Company did not know until 8:45 A.M. that the Pullman car arriving from Boston would not make connections with train 116 leaving at 9:30 A.M.

It appears further that the company called three extra conductors who were at home but each one responded that because he resided such a long distance from Penn Terminal District he could not get there in time to protect the assignment. Two regularly assigned conductors who were in town, Balmano and the Claimant, Otto, were also contacted. Balmano declined the assignment because he was busy moving that day.

Conductor F. E. Otto, Claimant, had arrived in New York from New Orleans at 7:55 A. M. and was released from duty at 8:15 A. M. Petitioner contends that he was contacted by a Relief Clerk about the assignment and that Otto was not desirous of accepting the assignment as he had just arrived in New York. It is Petitioner's position that it was the duty of the Company to have assigned him to protect the assignment and that he was not assigned as he should have been.

Carrier contends to the contrary the Claimant was assigned to the work but he declined the assignment stating he had just arrived in service from New Orleans and was too tired to perform the work available to him.

It cannot be seriously urged that the company should not pay some attention to the well being of its employees albeit his reason for the declination was that he was too tired rather than ill.

The Company exhausted every possibility of getting either an extra conductor or a regularly assigned conductor to protect the assignment required by Rule 64 and being unable to provide a conductor there was no violation of the Agreement.

We concur in the prior awards of this Division between the same parties, where the facts involved were somewhat similar to those in the instant case and where the issues are identical. See Awards 3918--Douglas; Award 10723--Moore; Award 10889--Russell.

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;

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That this Division of the Adjustment Board has jurisdiction over the ~~dis-~~
~~pute~~ 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. **Schulz**
Executive Secretary

Dated at Chicago, Illinois, this 27th day of April 1966.