

Award No. 13561
Docket No. DC-14625

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

Ross Hutchins, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYES, LOCAL 849
CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees Local 849 on the property of the Chicago, Rock Island and Pacific Railroad Company, for and on behalf of Donald O. Sullers, assigned to Carrier's Trains 5-10 July 12, 13, and 14, 1963, that claimant be paid for time between 9:30 P. M., and the arrival of Trains 5-10 at Des Moines, Iowa, account of Carrier discontinuing claimant's time prior to arrival at this point in violation of the Agreement between the parties.

EMPLOYEES' STATEMENT OF FACTS: Claimant was assigned on July 12, 13 and 14, 1963, to Carrier's Trains 5-10, Chicago, Illinois to Des Moines, Iowa, and return. Schedule setting forth this assignment provides that claimant's time be carried until 9:30 P. M., enroute Des Moines, although the arrival time of Train No. 5 at Des Moines is 12:15 A. M.

Employees filed time claim on behalf of claimant under date of July 17, 1963 (Employees' Exhibit "A"), directed to Carrier's General Superintendent Dining and Sleeping Car Department, claiming pay from the time claimant was required to report and did report, until arrival at the Des Moines terminal.

Carrier, in letter dated August 23, 1963, denied the claim, contending that, it had the right to cut claimant's time prior to arrival of Train No. 5 at Des Moines under Rule 2, Paragraph 6(c) of the Agreement between the parties (Employees' Exhibit "B"). Employees appealed this decision of the General Superintendent, to Carrier's Vice President-Personnel, the highest officer on the property designated to consider appeals, who also declined the claim.

POSITION OF EMPLOYEES: There is in existence and on file with your Board an Agreement between the parties to the dispute, which Agreement is by this reference incorporated herein as though fully set out and which Agreement provides, insofar as is herein applicable, as follows:

"Rule 2: HOURS OF SERVICE

"6(b) Time allowances will be calculated from time employees are required to report until released at layover, set-out or terminal point, or where rest periods are provided under Rule 2, except that no deduction in time will be made where interval of release is less

have never had a rule, never sought a rule and never obtained a rule which would give them the benefits desired by this claim.

Carrier contends that Rule 2(b) was strictly complied with inasmuch as the employees were paid from the time they were required to report until they were given a rest period as provided under Rule 2.

Rule 2(c) provides that the Carrier will specifically designate the rest time on trips, subject to the requirements of the service, as was the case in the instant claim. Further, Carrier had provided a dormitory car to Train No. 5 for the specific use of the dining car employees as outlined in Rule 20(f) of the Agreement. The rest periods designated for the assignment in the instant claim are between 9:00 P. M. and 6:00 A. M., subject to requirements of the service.

In addition to the above Carrier contends that this claim has not been handled on the property as required by the Railway Labor Act or Article V of the August 21, 1954 Agreement. The instant claim was handled only as shown in Carrier's Exhibits "A" and "B". This claim was never appealed to the Vice President-Personnel, the highest Carrier Officer designated to handle such disputes. This claim was never declined by the Vice President-Personnel.

Since the instant claim was not handled on the property in regards to the appeal steps the claim is improperly before the Board.

The Carrier requests the Board to deny this claim as it has no Agreement support and, moreover, was never handled through the appeal steps on the property.

(Exhibits not reproduced.)

OPINION OF BOARD: After reviewing the entire record, we conclude that this claim was never appealed to the highest officer designated by the Carrier to handle such disputes. For the reasons set out in Award 10286. This claim is, accordingly, dismissed for lack of jurisdiction.

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 does not have jurisdiction over the dispute involved herein.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 30th day of April, 1965.