

Award No. 13848
Docket No. DC-14775

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Daniel Kornblum, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 516

GREAT NORTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees Local 516 on the property of the Great Northern Railway Company, for and *on behalf of Arthur Slaughter, Winfred Graves, Joseph T. Monroe and all other waiters similarly situated*, for sixty-two (62) hours' pay at their current rates of pay per trip, commencing with the trip completed October 21, 1963, and each and every trip thereafter that the Dining Car Steward assigned to Trains 27 and 28 performs work covered by the Agreement between the parties hereto, and in violation of the Agreement.

EMPLOYEES' STATEMENT OF FACTS: The claim and dispute herein involved was instituted and concluded on the property via the following correspondence:

"October 22, 1963

Mr. J. W. Kirby, General Superintendent
Dining Car Department
Great Northern Railway Co.,
St. Paul 1, Minnesota

Dear Sir:

This constitutes our time claim for and in behalf of Waiters Arthur Slaughter, Winfred Graves and/or Joseph T. Monroe, for sixty-two (62) hours' pay at their current rates of pay per trip commencing with the trip completed October 21, 1963, and for each trip thereafter that Steward P. O. Christopher makes on Trains No. 27 and No. 28, St. Paul to Seattle and return to St. Paul. This is a continuing claim and is in existence until such time that it is satisfactorily settled.

POSITION OF EMPLOYEES:

1. Steward Christopher does and insists that he does perform the work specified and historically assigned to waiters by actually serving patrons on Trains No. 27 and No. 28. The work that

OPINION OF BOARD: On the merits, this claim is bottomed on alleged violation of the Scope Rule and Carrier's working Rules No. 90 through No. 112 (Rules and Instructions for Dining Car Employes), in that "the Dining Car Steward assigned to trains 27 and 28" regularly served food etc. to patrons in the Coffee Shop Car of those trains "instead of permitting the waiters to render this service." Carrier raises a series of jurisdictional and procedural objections to this claim, besides resisting it on its merits.

The claim as initially presented on the property named the offending Steward, whereas on the submission to this Board this name is omitted and instead the submission potentially implicates any "Dining Car Steward assigned to Trains 27 and 28." Carrier points out, without dispute in the record, that there were seven or eight different Dining Car Stewards assigned to those trains during the period projected and, therefore, in its present guise the claim is impossible of intelligent consideration and investigation.

Whether or not this omission constitutes a fatal defect in the claim, it would seem, both from it and the record in its support that there are other deficiencies which render the claim so vague and uncertain as to make it impossible to render a sound and definitive determination of it. Thus, even assuming that the claim were before us as initially presented to the Carrier, from the point of view of assessing actual damages there is nothing in the record to show how much time was spent by the offending Steward in the allegedly violative conduct, or that the named Claimants (let alone the unnamed ones) were in any measurable fashion deprived of earnings or compensation. In the circumstances it is patently "too vague and indefinite." Award 12502 (Wolf); see also, Awards 13028 (Hall), 12848, 12849 (Ables), 12366 (Seff), 12011 (Christian), 10740 (Miller) and 10628 (Levinson).

We expressly do not pass upon the substantive merits of the claim as it relates to the violation of the Scope Rule etc. alleged. So, too, for purposes of this opinion the other points raised by the Carrier are not considered one way or another.

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.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 24th day of September 1965.