

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

P. M. Williams, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 385

**CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC
RAILROAD COMPANY**

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees, Local 385, on the property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, for and on behalf of Waiters A. Jones and C. B. Williams; Cooks R. C. Wright and G. Hall, senior extra board employees, for all time lost by claimants since abolishment by Carrier of Fourth Cook and Number Six Waiter position on Trains 103-104, said abolishments in interline service between Carrier and the Union Pacific Railroad Company, in violation of interline Agreement between the parties hereto.

EMPLOYES' STATEMENT OF FACTS: Effective September 29, 1955, Carrier and Employees entered into an Agreement governing the assignment of crews in dining service on inter-railroad trains operated jointly over Carrier's lines and the Union Pacific Railroad Company (Employees' Exhibit A). The purpose of this Agreement was to insure Carrier's dining car employees their proportionate share of the work on these trains based on the number of miles the trains ran over the lines of each railroad. In this respect, the Agreement further provides:

"(2) In the event such service on the inter-railroad streamlined trains operated jointly over the lines of the Chicago, Milwaukee, St. Paul & Pacific Railroad Company and the Union Pacific Railroad Company is changed by reason of increase or decrease in such service, an adjustment of the inter-railroad work shall be made by agreement." (Emphasis ours.)

The train involved in this dispute (No. 103-104, the City of Los Angeles) at the time of the Agreement had in its consist two diners (Coach diner and regular diner) and Carrier's employees were assigned to the coach diner while Union Pacific employees manned the regular diner. Later, however, the coach diner was taken off and Carrier's employees were allocated two full crews on the regular diner in compliance with the above-quoted provision in the Interline Agreement. That is to say, by allocating two crews to Carrier's employees on the regular diner, Carrier's employees were still receiving their proportionate share of the work on the City of Los Angeles.

OPINION OF BOARD: When Carrier, on January 23, 1964, abolished the positions of the No. 6 Waiter and Fourth Cook, on trains "The City of Los Angeles," it cited as the reason for its act that a decrease in the required service had occurred. The two positions in question were filled by members of Petitioner's Organization and they allege Carrier's act violated the terms of an agreement signed by the parties on September 29, 1955. Specifically, Petitioner charges the effect of the abolishment of the two positions was to reduce Carrier's employees proper portion of the required service on the dining cars of the trains operated in Interline service.

A careful review of the record fails to disclose that the conclusion reached by Petitioner necessarily follows from the facts presented. We are of the opinion that certain significant and requisite facts are not disclosed in the record and their absence precludes our making a finding that the work covered by the agreement on the trains mentioned was, in fact, rendered disproportionate when Carrier abolished the positions of Claimants. Additionally, we are of the opinion that before we can logically proceed toward inquiring if the terms of the agreement were violated, we must first find that the act complained of actually reduced the proper portion of the work to be performed by Carrier's employees. As stated above, we have insufficient evidence in this record to make such a finding.

We will dismiss this claim because Petitioner has not met the burden of proof required of it and has not proven to us that the agreement was violated.

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 Employee involved in this dispute are respectively Carrier and Employee 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 15th day of October 1965.