

Award No. 14386
Docket No. DC-15667

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Benjamin H. Wolfe, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 351

GRAND TRUNK WESTERN RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees Local 351 on the property of the Grand Trunk Western Railroad, for and on behalf of R. L. Cason, E. Morrissette, T. H. Jacobs, I. Austin, Bernard St. Clair and A. Randle, et al, that they be paid for four (4) hours account of being required by Carrier to strip the diner to which they were assigned on April 22, 1965.

EMPLOYEES' STATEMENT OF FACTS: Claimants were regularly assigned employees on Carrier's Train No. 17, arriving Chicago April 22, 1965 at 6:20 P. M. Before going off duty, they were instructed to remove certain supplies from the diner to the commissary. They were not advised before reporting for their assignment that these additional duties were to be performed at the end of the trip. Claimants completed the transfer of the supplies at 7:00 P. M., at which time their pay was stopped.

Under date of April 29, 1965, Employees filed a time claim on behalf of Claimants, contending that they should have been paid for four (4) additional hours under Article 2-A of the Agreement between the parties. (Employees' Exhibit A.)

Carrier's Assistant Superintendent in letter dated May 25, 1965, denied the claim (Employees' Exhibit B). Additional correspondence took place with this official in letters dated June 2, 1965 and June 7, 1965. (Employees' Exhibit C and D.) Employees appealed on June 8, 1965 to Carrier's Vice President and General Manager, the highest officer on the property designated to consider appeals, who under date of June 22, 1965 also denied the claim. (Employees' Exhibit E and F.)

(Exhibits not reproduced.)

CARRIER'S STATEMENT OF FACTS: The claimant, Dining Car Employees, were working on Passenger Train No. 17, which operates from Toronto, Ontario, Canada, to Chicago, Illinois. The claimants were assigned to report for duty on No. 17 at Toronto at 5:30 A. M. and had a normal release time at Chicago of 6:20 P. M., which was the scheduled arrival time of No. 17 at the Dearborn Street Station, Chicago. On April 22, 1965, the claimants were instructed, while still en route to the Dearborn Street Station, Chicago, to remove certain perishable foods from the diner and to place same in the commissary stores prior to going off duty. Passenger Train No. 17

As a matter of information, I would refer you to Third Division, NRAB, Award 10176, involving a claim similar to the instant one which was denied by the Board.

Yours very truly,

/s/ H. A. Sanders
Vice Pres. & Gen. Mgr."

"DINING CAR EMPLOYEES' UNION, LOCAL 351

July 16, 1965

Mr. H. A. Sanders
Vice President/General Manager
Grand Trunk Western Railroad
131 W. Lafayette Street
Detroit 26, Michigan

Dear Sir:

From the context of your communication of June 22, 1965, your file 8290-3(13) in which you denied our Time Claim in behalf of L. Cason, E. Morrisette, T. H. Jacobs, I. Austin, B. St. Clair, A. Randle, et al.

I had hoped that we would have been able to compose our differences on the property of this carrier rather than seek the assistance of a third party. It appears, nevertheless, that our progress has been stalemated. Therefore, this is to advise that I will advance the subject matter to the National Railway Adjustment Board for further adjudication.

Very truly yours,

/s/ W. S. Seltzer
W. S. Seltzer
Fin. Secy.-Treasurer/
General Chairman"

* * * * *

Copies of the Dining Car Employees' Working Agreement, effective January 1, 1938, the supplemental Memorandum Agreement, effective March 1, 1943, and all subsequent supplements and amendments thereto, are on file with the Third Division.

OPINION OF BOARD: Carrier raised the jurisdictional defect that a conference was not held in connection with this case. The Organization protests that there was a conference, but there is no evidence of it in the record. We have held that the requirement of a conference is jurisdictional. See Award 13721. There is no evidence that the Organization asked for a conference or that Carrier refused it. Under the circumstances this Board may not decide the case on its merits.

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 does not have jurisdiction of 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 5th day of May 1966.