



Award Number 17433

Docket Number TE-16788

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**THIRD DIVISION**

Arthur W. Devine, Referee

**PARTIES TO DISPUTE:**

**TRANSPORTATION-COMMUNICATION EMPLOYEES UNION**

**THE NEW YORK, NEW HAVEN AND HARTFORD  
RAILROAD COMPANY**

**STATEMENT OF CLAIM:** Claim of the General Committee of the Transportation-Communication Employees Union on The New York, New Haven & Hartford Railroad, that:

1. Carrier violated the Agreement between the parties when commencing with the week ending February 5, 1966 it deducted the sum of \$97.86 from the earnings of Mr. R. E. Culpan for alleged over payment of deadheading when he was required to leave his temporary assignment for 5 days each during the weeks beginning December 12, 20 and 29, 1965, to protect assignments at Woodlawn and Cranston.
2. Carrier shall be required to refund to Mr. Culpan, the amount of \$97.86 wrongfully deducted from his earnings.

**EMPLOYEES' STATEMENT OF FACTS:** The Agreement between the parties, effective October 31, 1959, as amended and supplemented, is available to your Board and by this reference is made a part hereof.

This claim was presented and progressed in accordance with the time limits provided by the Agreement up to and including the highest officer designated by the Carrier to receive appeals. Having failed to reach a settlement, the Employees now appeal to your Honorable Board for adjudication.

When the events transpired that gave rise to this claim, the Claimant's status was that of an extra employee and was assigned to a temporary vacancy at Plainfield, second trick Operator working Monday through Friday, with assigned rest days, Saturday and Sunday. In the terminology peculiar to this Carrier, he was a spare employee and second trick at Plainfield was his hold down. Reverting further to the idiom of this Carrier, he was diverted from his hold down to one week vacancies at Woodlawn, Cranston, and Woodlawn, as described next.

Beginning Sunday, December 12, 1965, and ending on Saturday, December 18, 1965 he was required by the Carrier to work at Woodlawn, on third trick, with rest days Wednesday and Thursday. He claimed and was paid deadheading in both directions for each of the five work days. Carrier recaptured \$34.04 on the basis that he was only entitled to deadhead payments for the initial trip going to, and the final trip returning from, the assignment at Woodlawn. TCU Exhibits 1 and 3.

ducted from his pay. The claim was presented on the basis that Operator Culpan was diverted to Woodlawn and Cranston in accordance with the provisions of Article 29 of the applicable Agreement.

Attached in exhibit form is a copy of the pertinent correspondence as follows:

"A"—Superintendent Gregg's decision of March 22, 1966.

"B"—General Chairman's appeal of April 8, 1966.

"C"—Carrier's decision of May 18, 1966.

The claim was denied on the property on the basis that Article 29 is applicable to "regularly assigned employees"—not extra employees. Mr. Culpan was allowed initial and final deadheading in full accord with the provisions of Article 16 of the Agreement.

Copy of the Agreement dated September 1, 1949, as amended, between the parties is on file with this Board and is, by reference, made a part of this submission.

(Exhibits not reproduced)

**OPINION OF BOARD:** Except for the name of the Claimant and the locations involved, the facts, the agreement rules, and the contentions of the parties are the same as those involved in Award No. 17432. For the reasons stated in that Award, the claim herein will be denied.

**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;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

#### A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: S. H. Schulty  
Executive Secretary

Dated at Chicago, Illinois, this 11th day of September 1969.

Central Publishing Co., Indianapolis, Ind. 46206

Printed in U.S.A.