

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

PARTIES TO DISPUTE:

THE BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: "For and in behalf of H. A. Rock and W. E. England who are now employed as porters operating out of the New York Central District of New York City because the Pullman Company did under date of April 20, 1939 deny the claim initiated by the Brotherhood of Sleeping Car Porters for and in behalf of Porters Rock and England because of the violation of Rule 46 of the agreement now in force between the Pullman Company and its porters, attendants and maids, which rule provides for the operation of extra employes, said violation having occurred in the Chicago Central District at Chicago, Illinois on January 9, 1939, when said porters Rock and England were not assigned to extra service out of the Chicago Central District in conformity with Rule 46 above mentioned."

EMPLOYES' STATEMENT OF FACTS: "Your petitioner, the Brotherhood of Sleeping Car Porters, respectfully submits that it is the duly designated and authorized representative of all porters, attendants and maids in the service of the Pullman Company under provisions of the Railway Labor Act.

"Your petitioner further represents that in such capacity, it is duly authorized to represent H. A. Rock and W. E. England who are now and for a number of years past have been employed by the Pullman Company as porters operating out of the New York Central District of New York City.

"Your petitioner further sets forth that Porters Rock and England arrived in Chicago on January 9, 1939 on train No. 67 known as the Commodore Vanderbilt at 9:00 A. M. along with a number of other porters.

"Your petitioner further sets forth that Porters Rock and England got in touch with the sign out man in the Chicago Central District by telephone as soon as they had completed their work at about 10:00 A. M. that morning, and were assigned to go home deadheading on passes on train No. 68 leaving at 2:55 P. M. on January 9.

"Your petitioner further sets forth that there was extra work available back to New York on that particular date to which Porters Rock and England, by virtue of their seniority, were entitled to have been considered. Porters Rock and England were sent home deadheading on passes on that date.

"Your petitioner further represents that the respondent company did on that day and date assign a number of other men to this service, which Rock and England were entitled by virtue of seniority, and that the men assigned to such service were younger in point of seniority than Porters Rock and England.

would be entirely unfair, unduly expensive, and thoroughly impractical. Such an interpretation would be unfair to the majority of extra porters; expensive to the Company, causing pay for unnecessary held-for-service time; and impractical, requiring extra porters to be held, at added cost to them, at away-from-home stations until the expiration of their layovers, extending possibly to thirty-six hours (Rule No. 23). Rule No. 46 neither prohibits, nor restricts, the assignment of an employe from an away-from-home station, except to state that his assignment shall be '* * * preferably in service toward his home station.' Apart from the restriction appearing immediately above, Rule No. 46 had no application to the assignment to service of Porters Rock, and England, New District, from Chicago Central District on January 9th, 1939.

"The practical difficulties necessarily attached to the petitioner's interpretation of this rule are well-nigh insuperable. It is the petitioner's contention that Rule No. 46 shall operate to prohibit the use of an employe out of an away-from-home station, where other employes, possessing greater seniority are present at this away-from-home station. In short, the accepted and established policy of confining seniority to districts would have to be abandoned. The whole basis of seniority rights in the Agreement would necessarily have to be supplanted. Seniority would be national, no longer district, in scope. A new rule would be written.

"To follow the petitioner's interpretation to its logical conclusion, each of the Company's sixty-seven districts, and agencies, would have to maintain up-to-date seniority rosters of all other districts, and agencies, to be consulted on each assignment of an away-from-home porter, attendant, or maid. Each district would also have to prepare a daily list of local addresses and telephone numbers of all the 'foreign' employes in it. Furthermore, protection of the Company's service would be ignored, and whole lists of assignment of away-from-home porters would be subject to change up to the last minute of reporting for duty. This would entail untold clerical work, and would jeopardize Pullman service where it depended upon the prompt assignment of away-from-home porters. The petitioner's interpretation is so ridiculously impracticable, that from its very nature it is manifest that it was the intention of neither party to the Agreement to write such a provision.

"The present claim is based upon an untenable, impracticable, unjustified, and unsupported interpretation. Furthermore, this interpretation was specifically prohibited by a provision of the very rule upon which it is allegedly based:

'This rule shall not operate to prohibit the use of an employe out of an away-from-home station, preferably in service toward his home station.'

"The claim should be denied." (Exhibits not included.)

OPINION OF BOARD: The Board holds that the action here complained of was not in violation of Rule No. 46.

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 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; and

That the action here complained of was not in violation of Rule No. 46.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 26th day of January, 1940.