

Award No. 1462

Docket No. PC-1208

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

Richard F. Mitchell, Referee

PARTIES TO DISPUTE:

THE ORDER OF SLEEPING CAR CONDUCTORS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: "Failure to bulletin Boston and Albany Trains Nos. 15 and 40, operating between Boston and Albany, conductors being removed and porters placed in charge, September 24, 1939, the date of the change. Rule 31, Agreement between The Pullman Company and Conductors in the Service of The Pullman Company, requires that runs be bulletined when changed sufficiently for that purpose. Failure to bulletin the above run affects the seniority rights of all conductors in the Boston South District, especially those conductors who have been placed on the extra board. Claim filed by Conductors A. E. Treadwell, P. A. McAleer, J. F. Gunn, H. L. Latham."

EMPLOYEES' STATEMENT OF FACTS: "This grievance has been progressed in the usual manner under the rules of the Agreement between The Pullman Company and Conductors in the Service of The Pullman Company. Decision of the highest officer designated for that purpose is shown in Exhibit 'A.'"

"Prior to September 24, 1939, Boston and Albany Trains 15 and 40 were operated by Boston South District conductors between Boston and Buffalo. On September 24, 1939, this run was changed to operate between Boston and Albany.

Leave Boston	1:00 P. M.
Arrive Albany	6:15 P. M.
Leave Albany	3:15 P. M.
Arrive Boston	8:30 P. M.

"Boston to Albany is 200.4 miles.

"Train No. 15 carries a Boston-St. Louis sleeper.
Boston-Cincinnati sleeper.

"Train No. 40 carries a Chicago-Boston sleeper.

"A diagram of the line involved is shown in Exhibit 'D.'"

POSITION OF EMPLOYEES: "This grievance is similar in principle to Docket No. PC-699, Award No. 780, and the arguments used in that case are applicable to this one. They differ only in minor details. In this case the dispute is based on the failure to bulletin as required in Rule 31, Exhibit 'B.'"

"In the Agreement between The Pullman Company and Conductors in the Service of The Pullman Company, Rule 33, Exhibit 'C,' shows conclusively that this is a new run and should have been bulletined as provided in Rule 31."

contract by the parties. Knowing, however, that the terms of the contract and the record of the organization's position in the negotiation of that contract are such that it cannot seek a final adjudication upon the construction of the contract, a third step has now been taken. The conductors are now seeking legislation in the Federal Congress (H. R. 9406, introduced April 16th, 1940; S. 3798, introduced April 17th, 1940), to accomplish by that legislation what was first sought by amendment to the working agreements, and latterly before this Board, by construction of the contract. This resort to legislation is the clearest evidence that the conductors know that the limitations which they desire to place upon the porter-in-charge practice are not to be found in the present contract.

"Never before, we believe, has any organization asked this Board for a ruling which the organization has itself made impossible by such a record as that presented here. We ask the Board to give the agreement the interpretation which the record in this case shows has been placed upon it by the conductors themselves.

"The action of The Pullman Company involved in the present claim is embraced within the practice described. For the reasons stated herein, which show there has been no violation of any rules of the Agreement between The Pullman Company and its Conductors, the claim filed in this proceeding is without merit, and should be denied."

OPINION OF BOARD: The principles involved in this claim in respect to the right of the Pullman Company to change from a conductor operated line to a porter-in-charge line are identical with the principles announced in Docket PC-854, Award 1461. They are controlling in this case. We will consider the record and the showing made in the light of the statement made in Award 779. We quote from that award:

"* * * we should be furnished among other things the following criteria; other instances of comparable lines on which substitutions have been made; the history of the contested as well as the compared lines; reasons for the changes; changes in traffic volume."

It is the contention of the employees that The Pullman Company violated Rule 31 of the Agreement by failing to bulletin Boston and Albany trains 15 and 40 operating between Boston and Albany, conductors being removed and porters placed in charge on September 24, 1939; that the failure to bulletin the runs referred to affected the seniority rights of all conductors in the Boston South District.

It is the contention of the Pullman Company that the change in the method of operations complained of was due to the change in that part of the country from Daylight Saving Time to Standard Time; that immediately prior to September 24, 1939, eastbound train, 40, carried a third pullman car, line 1134, from Albany to Boston, and on that date the number of cars was reduced to one sleeping car and one parlor car; that the change on train No. 15 was due to the same reason; that in prior years these lines were operated by porters-in-charge; that with the inauguration of Daylight Saving Time on April 28, 1940, the operation on these lines again changed. The westbound train now carries three pullman cars, and the eastbound train carries two pullman cars. Because of the change in operations conductors were again employed beginning, April 28, 1940. Clearly, the change made here complained of was due to the change from Daylight Saving Time to Standard Time; it constituted a change in the operation of the trains. This is shown beyond any question by the fact that in April when the time was again changed from Standard Time to Daylight Saving Time, conductors were restored to these positions. We hold that the Pullman Company has met the burden of showing why the changes were made.

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 claimants have failed to show a violation of the current Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 12th day of June, 1941.