Award No. 1884
Docket No. PC-1775

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Norris C. Bakke, Referee

PARTIES TO DISPUTE:

THE ORDER OF SLEEPING CAR CONDUCTORS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: Conductors F. B. Jones, C. R. Bisbee, C. F. Hopkins and J. H. Frink, Jacksonville District, claim that by pooling A. C. L. 37-38-39 and 40, Jacksonville to St. Petersburg, they were deprived of extra work which would occur if these trains were not pooled. They are asking that the pool be discontinued and pay for all time lost on account of pooling these trains.

EMPLOYES' STATEMENT OF FACTS: This case 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. The decision of the highest ranking officer designated for that purpose is shown in Exhibit "A." Rules 18 and 54 are involved and are shown in Exhibit "B." Pooling two runs on A. C. L. Trains 37-38 and 39-40 took place on May 5, 1940. The run on Trains 37-38 had previously been operated independently, as prescribed for overnight runs of 14 hours or less—elapsed time—in each direction in Rule 54. There were two conductors assigned, with a relief conductor making a trip in the line after two round trips by each man regularly assigned, as prescribed in Rule 18. With the inauguration of the pool on May 5, 1940, four conductors were assigned without any relief. The sleeping cars southbound on Train 37 returned northbound on Train 38, and the sleeping cars southbound on Train 39 returned northbound on Train 40. The A. C. L. time cards show 37-38 as companion trains between New York and St. Petersburg and 39-40 as companion trains between Jacksonville and St. Petersburg.

POSITION OF EMPLOYES: This action is taken for the purpose of obtaining an interpretation of Rules 18 and 54, with appropriate settlement of the claim.

The pooling of the runs in question reduced the extra work to the extent of one-half a man's wages monthly in violation of the rules involved. The intent of Rule 18 cannot be misunderstood. Rule 54 is equally clear in meaning. The carrier has shown complete disregard for the intent of the rules, which is reflected in a letter from District Superintendent J. K. Breaux to Conductor A. G. Wise, Exhibit "C." It will be noted that Mr. Breaux ignores the rights of the extra conductors in this matter in his quotation from his letter of July 17, 1940, and follows this with a suggestion that the Company is willing to separate the runs but without any relief as provided in the rules. It will also be noted that in suggesting the separation, Mr. Breaux couples the wrong trains, so that the violation of the rules is still more willful. In other words, Mr. Breaux would compel the conductors to submit to two violations of the rules, where there is now one, in order to have the pool broken.

"We likewise advised that we wished to give his (Mr. Warfield's) proposed Rule (d) page 6, further study. During general discussion on this proposal Mr. Warfield made the very definite statement that he does not consider that a run which is an over-night operation one way and a day-time operation the other way is a pooled operation."

Certainly, the advancement of this dispute is in direct conflict with Mr. Warfield's position at the time the rule was drawn. Here, again, it is pertinent to revert to that portion of Mr. Warfield's proposal of August 21, 1936 reading:

"* * * Conductors shall have the full benefit of this rule by taking over-night runs out of pools, except where the pooled operation makes a more satisfactory run for the conductors."

SUMMARY

We have shown that the combination conductor operation here in dispute, has been in existence for many years, and is not in violation of Rule 54 of the existing Agreement. We have also shown that the Organization has started and dropped two prior protests on this question, and that the combination run constitutes a run more favorable to the conductors operating in it than the assignment contended for and does not cause the Company any unnecessary additional expense. The claim is without merit in equity, and in principle, and should be denied.

OPINION OF BOARD: The basis of the dispute and the respective positions of the parties have been sufficiently stated above, and while it would seem that the issue is comparatively simple, it has been quite the contrary. In the first place the question is a novel one. None of the awards submitted by either side even gets close to it, and a lot of time spent by the referee in going through the index digest of this division failed to throw any more light on it.

The referee is handicapped by lack of an adequate definition of what constitutes "an over night run" but such lack is not fatal because even the Carrier admits, inferentially at least, that this was an overnight run, but was not offensive to Rule 18 and 54 because it was a daylight run in one direction. However that is not the meaning placed upon the rules, as will be noted by the question and answer included in Rule 54, which says the rule will not be violated if "conductor operates * * * in other direction in charge of parlor cars." The only light this referee has on the significance of this explicit language is that used in Award 779 where Referee Swacker says, "We cannot see very well how dropping the parlor car could change the character of the Sleeper run * * *" and Symbol A T R-21, Page 81 of the U. S. Railroad Labor Board Rules for Reporting Information 1921 which would seem to indicate that the use of the words "parlor car" does assume a role of importance in this dispute, and the carrier may not justify its position by saying that because it was a daylight run, the rules were not violated.

Carrier's attempt to justify its practice based on conditions existing at the time the agreement was signed is unavailing, because the question and answer in Rule 54 makes it plain that the pool attempted in this case was contrary to the agreement, and must be discontinued. Also ordered that the conductors affected be paid for all loss of time on account of the wrongful pooling of these runs.

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 Rules 18 and 54 of the Agreement were violated and the claim should be sustained.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 24th day of July, 1942.