

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD TRAINMEN

WABASH RAILROAD COMPANY

STATEMENT OF CLAIM: Complaint and protest against the removal of dining car stewards from Trains Nos. 10 and 11 between St. Louis and Chicago and placing the handling of these dining cars in charge of colored waiters in lieu of stewards.

EMPLOYES' STATEMENT OF FACTS: Trains Nos. 10 and 11 (known as The Banner Blue) operate between St. Louis and Chicago. At the time this complaint originated, No. 10 was scheduled by timetable out of St. Louis at 12:00 noon and due to arrive in Chicago at 5:30 P. M. No. 11 was scheduled out of Chicago at 11:40 A. M. and due in St. Louis at 5:10 P. M. For a number of years prior to and at the time of negotiating into effect the schedule for dining car stewards effective February 1st, 1939, dining car stewards were assigned to Trains Nos. 10 and 11 (The Banner Blue). On July 15, 1941 the carrier discontinued the service of dining car stewards on Trains Nos. 10 and 11 and placed colored waiters in charge of these dining cars. The colored waiters are not represented by the Brotherhood of Railroad Trainmen and they do not hold seniority as dining car stewards. The colored waiters are represented by an organization of their own not in any way affiliated with the Brotherhood of Railroad Trainmen. Therefore, colored waiters are not represented by the general committee of the Brotherhood of Railroad Trainmen.

Effective February 1, 1939 an agreement was negotiated into effect between the carrier and general committee of the Brotherhood of Railroad Trainmen governing wages and working conditions of dining car stewards. Article 1 provides:

ARTICLE 1 — SCOPE

The following rules will govern the rates of pay, hours of service and working conditions of stewards when employed in the Dining Car Department.

Article 2 provides:

ARTICLE 2 — RATES OF PAY

1st year actual cumulative service.....	\$153.20	Per Month
2nd " " " "	163.20	" "
3rd " " " "	168.20	" "
4th " " " "	173.20	" "
5th " " " "	178.20	" "
6th " " " "	183.20	" "
Over 6 years " "	188.20	" "

(It will be understood, however, that these rates, effective December 1, 1941, were increased \$22.80 per month.)

that rule in a manner contrary to the provisions of the Railway Labor Act, and, therefore, the request of the Committee is equivalent to a request for a new rule.

The contention of the Committee should be dismissed and the complaint and protest denied.

OPINION OF BOARD: Both parties to this dispute have certified that Article 21 of the current Agreement is controlling; likewise the parties have informed the Board through the record in the case of their respective understandings regarding the application of Article 21 during the negotiations of the current agreement.

Affidavits by the representatives of the Carrier and of the Organization representing the dining car stewards are likewise in the file on this case further informing the Board of the understandings of the parties who negotiated the agreement. It would be almost impossible to find greater differences in the views, allegations and understandings of the two parties who conducted the negotiations of the agreement than those shown in this file involving the intent and purpose of Article 21 which states:

"It is understood that this agreement does not obligate the Carrier to any degree to employ stewards on any run or any car where food and refreshments are served when in its judgment the services of a steward are not required."

The action of the Carrier was not in violation of Article 21 of the Agreement.

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 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 action of the Carrier was not in violation of the Agreement.

AWARD

Complaint and protest denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 1st day of October, 1942.