

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

THE ORDER OF RAILROAD CONDUCTORS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: Conductors O. J. Swanson and J. G. Ricketson, Tampa District, claim additional pay for each trip made from Fort Myers to Naples, Florida, and Naples to Fort Myers, in Line 2031, since November, 1937. The trips in question were performed on specified layover days and should have been paid for under Rule 24 of the Conductors' Agreement.

EMPLOYES' STATEMENT OF FACTS: Conductors O. J. Swanson and J. G. Ricketson are regularly assigned (Rule 20) to Line 2031, operating as follows:

Report	Haines City	3:45 A. M.	1st	Day
Released	Fort Myers	9:10 A. M.	"	"
Report	Fort Myers	5:15 P. M.	"	"
Released	Haines City	12:15 A. M.	2nd	"

The Carrier, in bulletining this line for conductors' bids (Exhibit No. 2) added a conditional provision: that on days the cars in Line 2031 were operated to or from Naples, conductors would operate through to Naples, reporting their time Haines City to Naples.

There is in evidence an Agreement between the parties bearing effective date of December 1, 1936. Rules 12, 15, 20, 24, 31 and 33 are involved. The dispute 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 ranking officer designated for that purpose, denying the claim, is attached hereto as Exhibit No. 1.

POSITION OF EMPLOYES: Rules 15, 31 and 33 of the Conductors' Agreement prohibit bulletining of conductor runs, such as here involved, wherein conditional terminals are set up.

Rule 31 provides that runs shall be bulletined. Rule 15 provides that specific layovers will be prescribed in bulletins and Rule 33 provides that any change in terminals will require a run to be rebulletined. Therefore, under the provisions of the above rules, Line 2031 should be posted for conductors' bids with specific layovers at Haines City and Fort Myers. If the Carrier desires the conductors to carry their time as provided in the bulletin (Exhibit No. 2) without penalty payments (Rule 24) on days the car in Line 2031 is operated through to Naples, then, under the provisions of Rule 33, the line would necessarily have to be rebulletined each day so operated. The minutes of the initial hearing held with District Superintendent F. S. Wallace (Exhibit No. 3) show that the Carrier takes the position that it has the right to establish conditional terminals and that Conductors Swanson

In support of its claim, the Organization refers to Award 1669 of the Third Division of the National Railroad Adjustment Board. This award concerned a claim of Pullman Conductor O. H. Wentz, who was operating on a regular assignment with three terminals, Philadelphia, Pittsburgh and Providence. The run was really a Pittsburgh-Providence run which, during the depression years, had been assigned to conductors of the Philadelphia District, thru which station it passed, so as to provide work for the conductors of that district who had been hard hit during the depression.

On the trip involved in the dispute, the one from Pittsburgh to Providence, it became necessary in an emergency to use Conductor Wentz through to Boston from which station he deadheaded back to Providence. Before a hearing was held on the claim by the Third Division of the National Railroad Adjustment Board, the Company conceded that Conductor Wentz was entitled to additional pay for the service performed during his scheduled layover time at Providence. The claim involved solely the question of whether Conductor Wentz' time for the additional work performed should commence at 6:50 A. M., his actual arrival time at Providence, or at 7:50 A. M., the release time at Providence in his regular assignment. The Wentz case is not at all analogous to the instant dispute as alleged by representative Wise in his letter dated January 26, 1943, (Exhibit F, pp. 1 and 2). There is indeed no similarity in the cases. Conductor Wentz' assignment provided that he was to be released at Providence; and he was performing service, therefore, on his layover time when in an emergency he took charge of several extra cars destined beyond Providence to Boston. In the instant case, the trips from Fort Myers to Naples are a part of a regularly scheduled line operation. They are designated as such in the bulletins on which the conductors bid for the run and in the operating schedules of the assignment. The trips to and from Naples are not made on an emergency basis.

Considering the mutually agreed upon settlement in the Wentz dispute which specifically stipulated that the payment of additional money to Wentz "in no manner sets a precedent or establishes a principle" it is strange that the Petitioner would inject it into the current dispute.

CONCLUSION

The Company submits that the operation in question was established to meet service requirements in and out of Fort Myers and Naples. The conditional southern terminal of the conductors' operation designated as Line 2031 was fully advertised before it was bid upon by conductors. The dual southern terminal was accepted by the conductors without protest for over five years. The designation and establishment of conditional terminals, depending upon service requirements, is not prohibited by any rule of the Agreement. Specifically, it is not in violation of Rules 24 or 33. The claim of Conductors Swanson and Ricketson is stale, is without merit and should be denied.

OPINION OF BOARD: This claim for additional pay for each trip made from Ft. Myers to Naples and return is based on the contention that conductors, regularly assigned to line 2031 between Haines City and Ft. Myers, were used on layover time to perform service between Ft. Myers and Naples on days the Ft. Myers sleeper was operated thru to Naples for the accommodation of thru Pullman pay passengers.

Rule 15 provides specific layovers shall be prescribed in operating schedules for regular assignments. The rule does not provide for or contemplate conditional layovers, or that other than "specific layovers" may be prescribed.

The claim for additional compensation for time on duty Ft. Myers to release at Naples and time on duty Naples to Ft. Myers should be sustained for the actual service performed, retroactive to March 10, 1943.

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 claim for additional compensation under Rule 24 will be sustained to the extent stated in the Opinion.

AWARD

Claim sustained to the extent stated in the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson
Secretary

Dated at Chicago, Illinois, this 12th day of June, 1944.