

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

PARTIES TO DISPUTE:

BROTHERHOOD OF SLEEPING CAR PORTERS

THE PULLMAN COMPANY

STATEMENT OF CLAIM: * * * for and in behalf of Ben Stewart who is now and for some years past has been employed by The Pullman Company as an Attendant operating out of the Chicago District Commissary.

Because The Pullman Company did under date of April 4, 1946, deny the claim filed by this Organization for and in behalf of Attendant Ben Stewart under date of February 6, 1946, in which the Organization contends that Attendant Stewart should be paid the sum of \$26.10 due and payable to him as provided for under the rules of the Agreement between The Pullman Company and its Porters, Attendants, Maids and Bus Boys.

And further, for Attendant Stewart to be paid the sum of \$26.10 which the Organization maintains is due and payable to him.

EMPLOYEES' STATEMENT OF FACTS: Your petitioner, the Brotherhood of Sleeping Car Porters, respectfully submits that it is duly authorized to represent all Porters, Maids, Attendants and Bus Boys employed by The Pullman Company as it is provided for under the Railway Labor Act.

Your petitioner further represents that in such capacity it is duly authorized to represent Attendant Ben Stewart who is now and for some years past has been employed by The Pullman Company as an Attendant operating out of the Chicago District Commissary.

Your petitioner further represents that Attendant Ben Stewart in line with his regular employment was assigned to Line 5524 which operates between Chicago, Illinois, and New York City.

Your petitioner further represents that Attendant Stewart was due out on this run on January 7, 1946, reporting at 8:50 A.M. on that date, and that when Attendant Stewart reported at 8:50 A.M. for his assignment he was informed by the Assignment Clerk that the car that was due out on said line that day had been taken out on account of some repairs that had to be made, and that he (Attendant Stewart) was assigned to Line 5197 for which he was due to report at 12 noon on the same day. However, the Assignment Clerk told Attendant Stewart to call him on the phone at 9:30. Attendant Stewart called the Assignment Clerk at 9:30 and was informed by the Assignment Clerk that a regular sleeping car was going out in place of his regular car (5524) and told Attendant Stewart to try to get the train at the yard. Attendant Stewart at this time told the signout man that the time was too short to catch the train at the yard, but he would try. After he had tried to take the train in the yard, he was then informed to try to catch it at 63rd

incurred no liability. Proof of the Company's sincerity in its conviction that responsibility for the employe's actions on the date in question rests upon the employe himself is contained in the fact that the attendant was charged with the dereliction, accorded a hearing on March 16, 1946, and subsequently penalized with the assessment of a "Warning" upon his record.

In view of the above facts, the Company submits that the arguments of the Petitioner in behalf of its member are unconvincing. Its claim is without merit and should be denied.

OPINION OF BOARD: The claim was progressed on the property for compensation as provided under Rule 43 of the Agreement between the parties. The record shows that the assignment of this Claimant was not temporarily discontinued and that the line was filled by the use of a substitute car. Therefore, Claimant is not entitled to the compensation claimed.

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 employe involved in this dispute are respectively carrier and employe 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 assignment was not temporarily discontinued and the claim will be denied.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: H. A. Johnson,
Secretary

Dated at Chicago, Illinois this 20th day of May, 1947.