Award No. 4561
Docket No. PC-4464

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

ORDER OF RAILWAY CONDUCTORS

(Pullman System)

THE PULLMAN COMPANY

STATEMENT OF CLAIM: The Order of Railway Conductors, Pullman System, claims for and on behalf of Conductor E. F. Eddis of the Denver District that The Pullman Company violated Rules 7, 9, 21, and 22 of the Agreement between The Pullman Company and its Conductors in computing Conductor Eddis' time for the month of June, 1948, with special reference to the trip departing from Denver on June 5 at 4:45 P. M. released in Salt Lake City at 8:30 A. M., June 6, reporting in Salt Lake City same day 4:45 P. M., arriving in Rollinsville, Colorado, 12:20 P. M., June 7.

The Order of Railway Conductors contends that the portion of the trip Denver-Salt Lake-Rollinsville should be computed and paid as provided in Rule 6 and 21 of the Agreement.

It is further contended that portion of the trip from Rollinsville to Denver by bus should be credited and paid as provided in Rules 7 and 22 of the Agreement.

It is further contended that Conductor Eddis is entitled to held-for-service time as provided in Rule 9 of the Agreement from time released in Denver until next due out in his assignment.

EMPLOYES' STATEMENT OF FACTS: There is in evidence an Agreement between The Pullman Company and Conductors in the service of The Pullman Company, effective January 1, 1948. This dispute has been progressed in accordance with the Agreement, and the decision of the highest officer of The Pullman Company, designated for that purpose, denying the claim, is attached as Exhibit No. 1. The essential facts in this case are as follows:

Conductor Eddis held a regular assignment in Line 461, operated between Denver and Salt Lake City in D&RGW trains 7 and 8 at the time of the occurrence resulting in this claim. Copy of the Operation of Conductors Form 93.126, dated June 9, 1947, and covering this assignment, attached, marked Exhibit 2.

On June 5, 1948, Conductor Eddis reported at 4:45 P. M., at Denver, for duty in his regular assignment in Line 461; commenced to receive passengers 5:00 P. M.; departed from Denver on D&RGW train 7 at 5:30 P. M.; arrived Salt Lake City 8:15 A. M., June 6, 1948; released from duty 8:30 A. M., same

contends that Eddis should have been credited with a dead-head trip, Rollinsville-Denver, June 7, and held-for-service time in Denver, June 7-8, and therefore should have been paid at his hourly rate for this extra servrice. The Company has already shown the error of this contention. Inasmuch as Eddis performed no extra service in June, 1948, there could have been no violation of this Rule by the Company in computing his time for that month.

CONCLUSION

In this dispute the Company has shown it correctly computed the time of Conductor Eddis for the month of June, 1948, in accordance with the provisions of **Rule 20. Regular Assignments—Full Time.** In that month, Conductor Eddis performed full-time service in regular assignment and properly was paid on that basis. Although the Organization claims that on June 7, Eddis' regular operation was interrupted at Rollinsville and that Eddis continued on to Denver deadhead, the record clearly establishes that the service performed by Eddis, Rollinsville-Denver, was service in regular assignment. Further, an understanding with the Organization that trips such as performed by Conductor Eddis between Rollinsville and Denver would be considered as service in regular assignment supports the Company in this dispute. Clearly, the Organization's claim is without merit and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: Conductor Eddis was regularly assigned to Line 461, Denver-Salt Lake City, with his home terminal in Denver during June 1948. On a return trip Salt Lake City-Denver on June 7, 1948 the train was stopped at Rollinsville, 42 miles west of Denver, due to a tunnel cave-in. He was instructed to continue in service with the passengers while transported by bus to Denver.

It is claimed that this constituted an interruption of the return trip of his regular assignment entitling him to held-for-service time on return to his home station under Rule 9 of the Agreement between the parties, particularly Q-9 and A-9 thereunder reading as follows:

> "Q-9. Shall a regularly assigned conductor be credited and paid held-for-service time on return to his home station, as provided in paragraph (a), when completing only a portion of the return trip of his regular assignment?
>
> A-9. Yes, because there is no layover in the home station for incompleted reegular service."

There is no question but that the Company had a right to instruct him to continue in service with his passengers on the buses to Denver. Hence such travel was in service and not deadheading. However, whether such service was part of his regular assignment is dependent upon the Rules of the Agreement rather than the instructions of his superiors.

In Award No. 4007 we said:

> "Our view is his regular assignment was the performance of the job bulletined and bid in by him on train No. 22 as normally operated and that requiring him to perform the same work in a newly created section of the same train resulted in using him in service outside his assignment."

Under that authority his service in accompanying passengers on busses was not part of his regular assignment and hence he completed only a portion of the return trip on his regular assignment and is entitled to credit for held-in-service time in Denver under the Rules.

The Company relies upon a portion of a question and answer statement, which it claims was compiled in collaboration with the General Chairman of the Organization, reading as follows:

"Understanding was also reached with General Chairman Wise that when trains are turned en route, as for instance, turning the 'Champion' on the Pennsylvania Railroad either at Washington or Philadelphia, that the conductor returning home to New York would continue on the train in uniform with his passengers whether in coaches or parlor cars and his time arriving at his home station would be shown as a late arrival and he would not be allowed held for service credit and pay until next due out."

The Organization denies collaboration in the compilation of such statement and would restrict the operative effect thereof to specific trains. Determination of that dispute is not necessary to decision here since in our view understandings in derogation of the contract rules should not be extended by implication beyond the specific matter covered. The alleged understanding refers only to trains "turned en route," which is not the situation here, so it is inapplicable.

For the foregoing reasons the claim should be sustained and the Claimant's pay for June 1948 should be recalculated upon the basis of this opinion.

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

The Company violated the Agreement.

AWARD

The claim for time held for service at Denver is sustained in accordance with the Opinion.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated in Chicago, Illinois, this 21st day of September, 1949.

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

INTERPRETATION NO. 1 TO AWARD NO. 4561

DOCKET NO. PC 4464

NAME OF ORGANIZATION: Order of Railway Conductors
(Pullman System)

NAME OF CARRIER: The Pullman Company

Upon application of the Carrier involved in the above Award, that this Division interpret the same in the light of the dispute between the parties as to its meaning, as provided for in Sec. 3, First (m) of the Railway Labor Act, approved June 21, 1934, the following interpretation is made:

The Company requested an interpretation of Award No. 4561 and states that the only question to be resolved in this interpretation is what rule or rules of the working Agreement did the Board have in mind when it found that Eddis should be paid held for service at Denver.

The Award was clearly based upon Rule 9 of the Agreement in consideration of Q-9 and A-9 thereunder. The claim was sustained only as to the request for held for service time at Denver.

Referee Dudley E. Whiting who sat with the Division, as a member, when Award No. 4561 was adopted, also participated with the Division in making this interpretation.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 13th day of March, 1950.