

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward F. Carter, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD TRAINMEN

THE WESTERN PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the Brotherhood of Railroad Trainmen in behalf of the first out extra steward and in the absence of an extra steward for the first out regularly assigned steward for the hours accruing when No. 18 (California Zephyr), departed Oakland Mole March 20, 1949, and upon all subsequent dates when a lounge-buffet car upon which food is served is operated without a Dining Car Steward in Charge, in addition to other allowances. This Claim covers that territory of the Western Pacific Railroad between Oakland Mole and Salt Lake City and includes the operation of train No. 17 (California Zephyr) between Salt Lake City and Oakland Mole, from the inaugural date of its operation beginning March 21, 1949, when a lounge-buffet car was operated upon which food is served without a Dining Car Steward in charge, and for all subsequent dates, in addition to other allowances.

STATEMENT OF FACTS: With the inauguration of the California Zephyr Train No. 18, leaving Oakland Mole March 20, 1949, and No. 17, leaving Salt Lake March 21, 1949, a lounge-buffet car upon which food and drink is served without a Dining Car Steward in charge is operated daily.

Western Pacific Dining Car Stewards hold exclusive seniority rights to that territory between Oakland Mole and Salt Lake City.

POSITION OF EMPLOYES: The Agreement between the Carrier and the Brotherhood of Railroad Trainmen representing Dining Car Stewards and the applicable rules, read as follows:

The original agreement effective July 15, 1936, was amended through national action December 18, 1947, and are here cited:

BASIC MONTH AND OVERTIME:

Rules of existing agreements providing for the hours constituting a basic month shall be changed to provide that:

- (a) 225 hours credited as hereinafter provided shall constitute a basic month. All time paid for shall be credited against the basic month.
- (b) Overtime at pro rata hourly rates shall be paid for all time in excess of 225 hours to and including 240 hours;

When the classification "Lounge Car Attendant" (now Tavern Car Attendant) was negotiated with the Dining Car Cooks and Waiters Union in 1935, a higher rate of pay was established for the job because such employees would be in charge of the car and not working under the direct surveillance of a supervisor. Since 1935, prior to negotiation of Agreement with Dining Car Stewards, Lounge Car Attendants or Tavern Car Attendants have been in charge of their cars, handling cash, reports, etc., and have worked independent of and distinctly separate from the dining car crew and steward.

Therefore, it is Carrier's opinion that only regular dining car service, including the cafe cars on which regular dining car meals are prepared and served, comes within the Scope of the Agreement with Dining Car Stewards, as represented by the Brotherhood of Railroad Trainmen. Further, that their claim for the fountain and bar service on the buffet-dormitory cars, lounge cars, etc., should be denied as unwarranted and as infringing upon work and duties coming under Scope of Agreement held by the Dining Car Cooks and Waiters Union.

Again, Carrier desires to emphasize the fact that the buffet-dormitory car is not, nor cannot be used as a regular dining car. It is not equipped with a kitchen or range; it does not have a compartment or a device for the preparation or cooking of food.

(Exhibits not reproduced).

OPINION OF BOARD: On March 20, 1949, Carrier placed new streamlined trains No. 17 and 18 in operation in interline service between San Francisco and Chicago. The consist of these trains included one dining car with seating capacity of 48 persons, and one Buffet-Dormitory Vista Dome car with a seating capacity of 24 persons. The buffet car was manned by a tavern car attendant in charge, one second cook and one waiter. The Organization contends that a steward should have been assigned to the buffet car.

The collective agreement between the parties does not define the duties of a steward. The Organization contends that by letter agreement it was understood that dining car stewards would be used on all cars from which meals are served. The letter, signed by the Superintendent of Dining Cars under date of April 30, 1943, stated in part:

"I am in accord with your letter, and agree that our agreement calls for the use of Dining Car Stewards on all cars from which meals are served."

The record shows that lunches and meals were served in the buffet car on the trains here involved. Regular printed menus were used. The patrons were seated at tables and we think the situation was clearly within the scope of the letter agreement.

Carrier points out that hot meals were not served and that kitchen facilities were not maintained in the buffet car. But these are not conditions that have any force in view of the plain, definite statement made in the letter agreement. We are of the opinion that the agreement, as mutually interpreted by the parties on this Carrier, means just what it says, to wit: that a steward is required on all cars from which meals are served. An affirmative award is required.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That both parties to this dispute waived oral hearing thereon;

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 Agreement was violated.

Claim sustained.

AWARD

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 30th day of November, 1950.