

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Dudley E. Whiting, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD TRAINMEN

SOUTHERN PACIFIC COMPANY (Pacific Lines)

STATEMENT OF CLAIM: Request from the Local Committee, Dining Car Stewards, that dining car stewards be assigned to Trains 94 and 95 between Los Angeles and San Francisco, also claim in favor of dining car stewards standing for service for the amount they would have earned if used on Trains 94 and 95, October 2, 1949, and each subsequent date Trains 94 and 95 are operated with waiters-in-charge in lieu of dining car stewards.

EMPLOYES' STATEMENT OF FACTS: Prior to October 2, 1949, dining car stewards were assigned to Trains 96 and 97 (Noon Daylight) and Trains 70 and 69 (Coaster) between San Francisco and Los Angeles, with the following schedule departing and arriving times:

Train	Departing Point	Departing Times	Arriving Point	Arriving Times
96	San Francisco	12:15 P.M.	Los Angeles	9:55 P.M.
97	Los Angeles	12:15 P.M.	San Francisco	9:55 P.M.
70	San Francisco	7:15 P.M.	Los Angeles	7:45 P.M.
69	Los Angeles	7:40 P.M.	San Francisco	8:45 P.M.

Effective October 2, 1949, Trains 96, 97, 69 and 70 were discontinued and effective same date Trains 94 and 95 were established between Los Angeles and San Francisco with the following scheduled departing and arriving times:

Train	Departing Point	Departing Times	Arriving Point	Arriving Times
94	San Francisco	8:15 P.M.	Los Angeles	6:45 A.M.
95	Los Angeles	8:00 P.M.	San Francisco	6:45 A.M.

Positions of dining car stewards formerly operating on Trains 96, 97, 69 and 70, were abolished effective October 2, 1949.

Dining cars (seating capacity 56) in service on Trains 96 and 97, prior to October 2, 1949, were placed on Trains 94 and 95, effective October 2, 1949, at which time waiters-in-charge were employed on these trains.

The waiter in charge handles the food checks; collects money, checks stock and renders reports. He also assists in waiting on table when not engaged in other duties.

CONCLUSION

The carrier asserts that it has conclusively established that the claim in this docket is without merit and therefore submits that it should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: This claim cannot be sustained for the following reasons:

1. Our Award No. 493, decided without a referee, denied a similar claim under the same rules and involving the same parties.
2. Subsequent thereto the Carrier has continued to utilize "waiters-in-charge" instead of "stewards" under similar circumstances.
3. No change in the applicable rules has occurred since that Award.
4. In the absence of any change in the rules or the practice involved, that Award controls the decision here.

The Employees contend that the new Starlight trains were merely a continuation of former service with a change in time. However, from the evidence presented, it appears that there was a bona-fide discontinuance of prior service and an inauguration of new and different service in the abolition, by the Carrier, of four trains and the scheduling of two new trains effective October 2, 1949.

The disappointment of the Employees over the loss of positions subject to the Agreement is quite understandable, but this Board does not have plenary equitable jurisdiction. We have authority only to interpret, apply and enforce the agreed upon rules and once interpreted, we can only apply and enforce them accordingly until changed.

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

The Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: A. I. Tummon
Acting Secretary

Dated at Chicago, Illinois, this 17th day of October, 1951.