

Award No. 6009  
Docket No. PC-5976

**NATIONAL RAILROAD ADJUSTMENT BOARD  
THIRD DIVISION**

Fred W. Messmore, Referee

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**PARTIES TO DISPUTE:**

**ORDER OF RAILWAY CONDUCTORS, PULLMAN SYSTEM  
THE PULLMAN COMPANY**

**STATEMENT OF CLAIM:** Claim of the Order of Railway Conductors, Pullman System, for and in behalf of Conductor T. E. Talley, Dallas District, that The Pullman Company violated Rule 38, when

1. Under date of February 4, 1951, Conductor R. C. Lansberry of the San Antonio District was assigned by the Dallas District to MK&T Train No. 7, Dallas to San Antonio, and

2. We now ask that Conductor T. E. Talley be compensated for the trip on MK&T Train No. 7, Dallas to San Antonio.

**EMPLOYES' STATEMENT OF FACTS:** There is in evidence an Agreement between The Pullman Company and Conductors in the service of The Pullman Company, dated January 1, 1951. This Rules Agreement will be considered a part of this Statement of Facts.

Various rules thereof may be referred to herein from time to time without quoting in full.

This dispute has been progressed in accordance with the Agreement. Decision of the highest officer designated for that purpose denying the claim, is attached as Exhibit No. 1.

The essential facts necessary to a determination of this dispute are as follows:

On February 2, 1951, Conductor R. C. Lansberry, who holds seniority in the San Antonio District, was given an Assignment to Duty slip by the Denver District to deadhead from Denver to San Antonio via Dallas. On arrival at Dallas morning of February 3, 1951, the Dallas District removed Conductor Lansberry from his deadhead assignment and held him at that point until the morning of February 4, 1951, on which date he was given the extra service assignment on MK&T Train No. 7, Dallas to San Antonio.

Rule 25, Basic Seniority Date, reads, in part, as follows:

"The seniority of a conductor, which is understood in this Agreement to mean his years of continuous service from the date last employed, shall be confined to the district where his name appears on the seniority roster."

miles—1082.2 miles equal 24.2 miles) in trips exceeding 1000 miles is insignificant and cannot by any stretch of the imagination be considered in the determination of whether or not a route is a "direct route."

### CONCLUSION

In this submission The Pullman Company has shown that the assignment given to Conductor Lansberry was proper under Question and Answer 2 of Rule 38, which Question and Answer permits Management to use a foreign district conductor in service to or from an intermediate point which is on a direct route toward the conductor's home station. No provision of Rule 38, which the Organization alleges has been violated in this dispute, prohibited Management from assigning San Antonio District Conductor Lansberry to return to his home district in service on MKT train No. 7, Dallas-San Antonio.

Therefore, the claim should be denied.

The Company affirms that all data submitted herewith in support of its position have heretofore been presented in substance to the employee or his representative and made a part of the question in dispute.  
(Exhibit not reproduced).

**OPINION OF THE BOARD:** The claimant, T. E. Talley, is an extra conductor assigned to the Dallas District. Conductor R. C. Lansberry holds seniority in and is assigned to the San Antonio District. Conductor R. C. Lansberry was given an assignment to the Denver District, February 2, 1951. After arrival in Denver on a trip San Antonio to Denver, he was given an assignment to deadhead, Denver to San Antonio, via Dallas, reporting for the trip at 12:15 P. M. Upon arrival at Dallas at 10:40 A. M., February 3, 1951, Conductor Lansberry missed connections with train C & S, specified in assignment to duty slip. At approximately 4 P. M., February 3, 1951, the Dallas District office received advice that an extra Pullman car would be operated on MKT train No. 7, February 4, 1951, from Dallas to San Antonio, which would require the services of a Pullman conductor, and the Carrier assigned foreign-district Conductor Lansberry, who was still in Dallas, to make the trip and to report for duty at 8:30 A. M.

Conductor Talley was available for this service trip February 4, 1951, and presented a claim for the amount he would have earned in the event he had been permitted to make the trip. The claim was progressed through the proper channels on the property and was denied.

The contention of the Petitioner is that Rule 38 (e) requires the Company to return a conductor by the shortest mileage route (that the shortest mileage route is what is meant by a direct route) if it desires to change his assignment from deadheading to service at an intermediate point where local extra conductors are available. Therefore, in the instant case the Carrier violated Rule 38 (e) of the Agreement between the parties effective January 1, 1951.

In the event the Petitioner's contention is correct, the Carrier would be required to pay claimant for the trip he lost, as provided for in the Memorandum of Understanding between the parties.

The Carrier's position is that Dallas is on a direct route between Denver and San Antonio within the contemplation of Rule 38 (e), and the assignment of Conductor Lansberry, as heretofore indicated, is proper.

Rule 38 provides in part:

"(a) All extra work of a district, including work arising at points where no seniority roster is maintained but which points are under the jurisdiction of that district, shall be assigned to the extra conductors of that district when available, except as provided in paragraphs (d) and (e)."

Paragraph (e) provides:

"(e) This rule shall not operate to prohibit the use of a foreign district conductor out of a station in service moving in a direct route toward his home station or to a point within a radius of 50 miles of his home station."

The following apply to the question to be decided:

"Q-1. What is the meaning of the word 'direct' as used in paragraph (e) of this rule?

A-1. 'Direct' means a direct rail route between two given points." The examples need not be set forth.

"Q-2. Shall it be permissible to use a foreign district conductor in service to or from an intermediate point which is on a direct rail route toward his home station?

A-2. Yes."

"Q-7. Shall a foreign district conductor who has been deadheaded from one district to another in other than a direct route toward his home station be used in service before all available extra conductors of that district have been used?

A-7. No."

The Carrier points out that Rule 38 and (e) therein grants a foreign district conductor a preference over district conductors to service moving toward his home station. Further, that question (2) and the answer thereto permits the use of a foreign district conductor to an intermediate point on a direct route toward his home station. Consequently, the Company had the right to assign foreign district Conductor Lansberry who was in Dallas, an intermediate point on a direct route towards his home station, San Antonio.

The Employes assert question (7) and the answer thereto offsets the Carrier's contention for the reason that Dallas is not an intermediate point on a direct route toward Conductor Lansberry's home station within the contemplation of Rule 38 (e). It is an indirect intermediate point because it is not the shortest mileage route between the two points, Denver to San Antonio.

Reference is made to the proceedings of the Emergency Board of 1945, and certain testimony adduced during the hearing before the Emergency Board of 1950. The Emergency Board of 1945 concluded that a foreign conductor should not be used for any service out of the station where he is held except in direct route toward his home station. The Emergency Board of 1950 recommended that both the Organization and Company proposals be withdrawn, thus leaving Rule 38 (e) as adopted based upon the 1945 Emergency Board's recommendation.

The Carrier asserts that the 1945 Emergency Board's recommendation contained no such interpretation as the Organization is attempting to establish, i.e., a return of a foreign district conductor in service to his home district should be confined to the rail route which was shortest in mileage. That Rule 38 (e) does not make mileage the controlling factor in determining whether or not a route is a direct one. It does not list any absolute standards for determining what constitutes a direct route. The Carrier considers (1) geographic direction, (2) hours required for the trip, (3) whether it is a direct ticketing route to the conductor's home station, and (4) as well as mileage in determining whether a route is direct. If the route is not significantly different from the other routes toward a conductor's home station on the basis of these factors, that route is considered to be direct.

We have taken cognizance of Award 5763, this Division, involving the same parties, cited by the Carrier, and also the case settled on the property, cited by the Employes, and the contentions of the parties in each case. It is apparent in both cases the mileage factor was taken into consideration in the application of Rule 38 e). While some controversy exists between the parties with reference to the percentage of mileage, that is, whether it is so insignificant in fact that it would make no particular difference insofar as the direct route is concerned, as contended for by the Carrier, or as contended for by the Employes where there must be no leeway in percentage of mileage.

As stated previously in the opinion, Rule 38 (e) contains none of the factors contended for by either of the parties in this case. We believe that a reasonable interpretation of the rule requires us to hold that when Conductor R. C. Lansberry deadheaded from Denver to San Antonio by way of Dallas, Dallas was an intermediate point on a direct route. Rule 38 (e) does not specify the most direct route, or the shortest direct route. The hour of arrival in any event would be the same as shown by the record. We believe under the circumstances that Rule 38, paragraph (e), was substantially complied with by the Carrier.

What is required is a reasonable interpretation of the rules in a case of this kind.

Further, we say that every case of this type must be decided from the factual situation developed therein.

For the reasons heretofore given, the claim should be denied.

**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 the Carrier did not violate the Agreement.

#### AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon  
Secretary

Dated at Chicago, Illinois, this 25th day of November, 1952.