Award No. 6472
Docket No. PC-6229

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION

Edward M. Sharpe, 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 in behalf of Pullman Conductors J. E. Bourke, J. R. Deckard and O. H. Wentz, Philadelphia District, that:

1. The Pullman Company violated Rules 47, 46, 33 and 25 of the Agreement between The Pullman Company and its Conductors, when on July 1, 1951, without conference and agreement with the General Chairman, the conductor operation between Philadelphia and Washington, designated as Line 2357, was reallocated to the Baltimore District.

2. We now ask that Conductors Bourke, Deckard and Wentz, who were entitled to the run on the basis of their seniority as provided in Rule 25 of the Agreement, be credited and paid for each trip between Philadelphia and Washington and return that they lost.

EMPLOYES' STATEMENT OF FACTS: I. A conductor operation was established on February 2, 1947, on PRR Trains 439-441 and 124 between Philadelphia and Washington, designated as Line 2357; this run was awarded to the Philadelphia District under the provisions of Rule 46.

Conducors assigned to this run operated between Philadelphia and Washington in charge of Pullman cars in both directions.

The operation continued in this form for over three years.

Effective April 30, 1950, this conductor operation was changed, the Philadelphia Conductor returning from Washington on PRR 126 instead of PRR 124 without being in charge of any Pullman cars. Under this changed operation the Conductor's time continued to be credited under Rule 6 and and paid under Rule 20. The run was rebulletined under the provisions of Rule 33.

The operation continued in this form for one year and two months.

On June 26, 1951, this conductor operation was changed, the Philadelphia Conductor returning from Washington on PRR 400 instead of PRR 126 in charge of cars in Lines 2357 and 6580.

District conductors to return from Washington deadhead on train No. 126, rather than in service on train No. 124, was a substitution of trains which required re-bulletining of the run under the provisions of Rule 33 but which did not constitute new service. If new service is involved, however, Rule 33 has no application since the run in question is a new run—not a changed run, such as is contemplated by Rule 33. Thus, the mere fact that the third change listed in Rule 33 provides for re-bulletining of a changed run when there is a substitution of one or more trains in a run for one or more of the trains in the run does not establish that Rule 33 required re-bulletining of the run created by the combining of the two one-way conductor requirements in the Philadelphia District as a changed run and foreclosed Management from considering the new run as new service.

Rule 25. Basic Seniority Date provides that the seniority of a conductor (his years of continuous service from the date last employed) shall be confined to the district where his name appears on the seniority roster. Further, no deductions shall be made from the seniority of conductors for time spent on authorized leaves of absence, furloughs or sickness. Rule 25 is merely expressive of the individual conductor's seniority rights to work assigned to his district, as is evidenced by the fact that Rule 25 is embodied in the working Agreement under the general heading SENIORITY RIGHTS AND ROSTERS. Other rules under the same heading are **Rule 26. Posting Seniority Rosters, Rule 27. Consolidation of Seniority Rosters, Rule 28. Separation of Seniority Rosters, Rule 29. Conductors Promoted to Supervisory or Higher-Rated Positions,** and **Rule 30. Conductors Elected or Appointed to Official Positions.** Thus, the Rule has no application to determine what work shall be assigned to the conductor's district. If the Board finds that Rule 46 was properly applied to the run on trains Nos. 431-449 and 400 effective July 1, 1951, Rule 25 cannot have been violated since the Philadelphia District conductors would have no rights in the run.

CONCLUSION

The facts in this case as presented herein clearly support the Company's position. Management's action in discontinuing the Philadelphia District conductors' run designated Line 2357 and considering the new run on PRR trains Nos. 431-449 and 400 as new service conformed precisely to an established interpretation of **Rule 46. Assignment of Runs to Districts.** The Organization's contention in this dispute is an attempt to abrogate this established interpretation and to obtain by interpretation what it failed to obtain in the negotiations leading up to the present working Agreement. The Organization's claim is not well founded either in the rules of the Agreement or in justice to the conductors of all the districts involved.

The Organization's claim is without merit and should be denied.

The Company affirms that all data submitted herewith in support of the Company's position have heretofore been presented in substance to the employes or their representative and made a part of the question in dispute.

(Exhibits not reproduced).

OPINION OF BOARD: A conductor operation was established in 1947 on P.R.R. Trains 439-441 and 124 between Philadelphia and Washington designated as line 2357 and awarded to the Philadelphia District under the provisions of Rule 46 which provides:

> "In the establishment of new service, the seniority of the extra conductors in the districts involved shall determine which district shall furnish conductors for this service."

Conductors assigned to this run operated between Philadelphia and Washington in charge of Pullman cars in both directions. Effective April

30, 1950, this conductor operation was changed, the Philadelphia conductor returning from work on P.R.R. 126 instead of P.R.R. 124 without being in charge of any Pullman cars. On June 26, 1951, this conductor operation was again changed, the Philadelphia conductor returning from work on P.R.R. 400 instead of P.R.R. 126 in charge of conductors in Lines 2357 and 6580. On July 1, 1951, the conductor operation was reallocated without conference and agreement with the General Chairman to the Baltimore District, being designated as Line 6580.

It is the position of the employes that the change made in assignment, Line 2357 on June 26, 1951, was solely the substitution of one train for another in the run which required only the rebulletining of the run to Philadelphia District Conductors as provided in Rule 33; that when the Carrier transferred the Conductor operation to the Baltimore District on July 1, 1951, and bulletined the run to Baltimore conductors, such action was in violation of Rules 46 and 47; that no new Pullman service was established from Washington to Philadelphia, it was merely transferred for operational purposes from Train 108 to Train 400 and that Rule 33(3) clearly provides that when one or more trains are substituted for one or more trains on a run, then the assignment must be rebulletined and that there is no exception in Rule 33 which provides that it has no application if a "service" trip is substituted for a "deadhead" trip on one leg of a regular assignment.

It is the position of the Carrier that, inasmuch as no Pullman car or Pullman conductors previously operated on Train 400, the transfer of cars to that train from Train 108 created a new conductor requirement on Train 400 northbound which it properly combined with the one-way conductor requirement on Trains 431-499 southbound and that because the change, effective June 26, 1951, established new conductor service on Train 400, on which train no conductor service was previously operated inasmuch as no Pullman cars were handled thereon, Baltimore District conductors were entitled to consideration under Question and Answer 1 to Rule 46 for the reason that Baltimore is an intermediate district between Philadelphia and Washington.

We note that, effective January 1, 1951, Question and Answer 1 under Rule 46 and thereafter changes in the inter-district run betweeen Philadelphia and Washington were subject thereto. We also note that Rule 46 does not expressly define new service. The so-called "new service" consisted solely of the removal of certain Pullman cars from one conductor operation and their transfer to another operation. Because of the fact that Rule 46 does not define "new service" each case must be determined upon the facts presented in such cases.

Rule 33(3) provides that when one or more trains are substituted for one or more trains in a run, then the assignment must be rebulletined. The above rule does not provide for any exceptions, such as if a service trip is substituted for a deadhead trip on one leg of a regular assignment. In our opinion there was no new Pullman service established from Washington to Philadelphia. It was merely transferred from Train 108 to Train 400. It follows that Rule 46 has no application to the facts in the case at bar. Rule 33 governs and the reallocation without agreement was in violation of Rule 47.

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:

The 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

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 9th day of February, 1954.