

**NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISION**

PARTIES TO DISPUTE:

**JOINT COUNCIL DINING CAR EMPLOYES, LOCAL 385
CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD
COMPANY**

STATEMENT OF CLAIM: Claim of the Joint Council Dining Car Employees, Local 385 on the property of the Chicago, Milwaukee, St. Paul & Pacific Railroad Company, for and on behalf of Orvill Scott, that he be reimbursed for the difference between what he was paid in the month of February, 1953, and what he should have been paid under Rule 2 of the agreement between the Chicago, Milwaukee, St. Paul & Pacific Railroad Company, and the Joint Council Dining Car Employees.

EMPLOYEES' STATEMENT OF FACTS: The parties to this dispute have an agreement, dated September 1, 1949, which reads in part as follows:

"Rule 2. Hours of Service

(a) Two hundred and five (205) hours or less will constitute a basic month for regular assigned employees who are ready for service the entire month and who lose no time of their own accord."

This rule is in most of the agreements between the organizations representing dining car workers, and the carriers throughout the country. It is generally, and has been historically interpreted that an individual, working in regular assignment throughout the month, who loses no time of his own accord, could not receive no less than the basic minimum wages; that is payment for at least 205 hours. In many instances regular assigned employees do not work 205 hours. However, they are paid the amount created by multiplying their hourly wage by 205.

In order for an employee to have what is termed a regular assignment, he must bid on an assignment, posted by the carrier. These assignments customarily reflect the number of hours in the assignment, the number of days necessary to fulfill the assignment, including the number of days that the employee will lay over at his home terminal.

Lay-over days, as reflected in the operating schedule that the individual may bid for, are considered a part of the employees' assignment. Further an employee who seeks unemployment compensation immediately after being relieved of a regular assignment, cannot use the lay-over set forth in his schedule. This further indicates that the lay-over days in a schedule are part of the employees' regular assignment.

In the instant dispute, claimant was a Buffet Car Attendant on trains 15 and 16. This assignment provided 6 days of work, and 6 days of lay-over at claimant's home terminal, Chicago, this however, included the day of his arrival at this point.

due to the fact that he was not ready for service the entire month and lost time of his own accord and during the period that he was not ready for service on his new assignment it was necessary for the Carrier to use an extra waiter in his place who was paid for the service performed.

There is no basis for the claim which has been presented in behalf of claimant Scott and we respectfully request that it be declined.

(Exhibits not reproduced).

OPINION OF BOARD: From an examination of the facts and the evidence submitted in this case, it appears that the provisions of the Rule upon which the claim is brought here were met by the Carrier. The Carrier's method of payment was, therefore, proper and the claim will 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 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 not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 18th day of October, 1954.