

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

THE BROTHERHOOD OF RAILROAD TRAINMEN

**CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD
COMPANY**

STATEMENT OF CLAIM: Claim of Chicago, Milwaukee, St. Paul & Pacific Extra Dining Car Stewards for lost earnings when they were not used on Train No. 17 from Chicago to Tacoma, Washington, May 23, 1953 and June 1, 1953, and all subsequent dates, when a dining car operated on Trains 17 and 18 with a crew consist of two cooks and two waiters.

EMPLOYES' STATEMENT OF FACTS: On May 26, 1953, Train No. 17 arrived at Tacoma, Washington from Chicago, Illinois with Dining Car 106 and Head Waiter V. Manning in charge of the crew. The crew consisted of two cooks and two waiters. On June 4, Train No. 17 arrived in Tacoma, Washington with Head Waiter Harrison in charge of the crew which had a consist of two cooks and two waiters.

CARRIER'S STATEMENT OF FACTS: Effective with Train No. 17 out of Chicago, Illinois and Train No. 18 out of Tacoma, Washington on January 15th, 1953, the operation of the dining car on those passenger trains was discontinued. The stewards assigned to the dining cars on those trains as well as other members of the dining car crews were, at that time, advised of the discontinuance of the operation of the dining cars on those trains.

Since then a dining car has been operated on Train No. 17 or on Train No. 18 only in a case where a special group or party used those trains. This occurred on May 23d, 1953. Train No. 17 from Chicago handled a special group of Army men from Chicago, Illinois to Tacoma, Washington and a dining car was added to the train, for that movement only, to provide meal service for the special party. The dining car crew on that trip consisted of the following:

- 1 Waiter-in-Charge
- 2 Cooks
- 2 Waiters

A special party used Train No. 17 from Chicago, Illinois on June 1st, 1953 to Tacoma, Washington and in that instance a dining car was added to the train, for that movement only, to provide meal service for the special party. The dining car crew on that trip consisted of the following:

- 1 Waiter-in-Charge
- 2 Cooks
- 2 Waiters

"A dining car steward shall be assigned on all cars used for the purpose of serving meals when the regular consist of crew is six (6) or more cooks and/or waiters."

The same is true in connection with the single trip operation of an extra dining car with a crew consisting of less than six cooks and/or waiters, on Train No. 17 June 1st, 1953.

There is no schedule rule support for the claim and the Carrier respectfully requests that it be declined.

All data contained herein has been furnished to the employes.

OPINION OF BOARD: The operation of regular dining cars on Trains 17 and 18 was discontinued on January 15, 1953. Thereafter, dining cars were used on these trains only when a special group or party was being carried. Such circumstances necessitated the use of dining cars on Train 17 on the claim dates here involved.

Rule 2(a) under which the claims are asserted reads as follows:

"A dining car steward shall be assigned on all cars used for the purpose of serving meals when the regular consist of crew is six (6) or more cooks and/or waiters. It is understood the assignment of a swing cook and/or waiter for short trip between terminals of regular assignment shall not be construed as a violation of this rule. Where a steward is now assigned to a car with regular crew consist of six (6) or less cooks and/or waiters, the steward will be continued on the car until or unless the number of passengers served justifies reduction in present crew consist of cooks and/or waiters. Assistant stewards may be used if necessary, but not in sole charge of dining car at less than the steward's rate applicable to the assistant steward's continuous length of service."

On neither claim date was there a crew consist of six (6) or more waiters and/or cooks. There was no need for a steward, therefore, under the first sentence of the rule.

The Employes rely upon the third sentence of the quoted rule, but it is manifestly inappropriate to their claim. On the dates in question there was no steward "now assigned to a car with a regular crew consist" to be continued in service. There was no regular dining car—and thus no regular crew of any number—assigned to this train. Regular dining service had been discontinued on this train some time before.

The facts fail to show any rule violation and the claim must, therefore, 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 parties to this dispute waived oral hearing thereon;

That the Carrier and 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 no violation of the applicable Agreement has been shown.

AWARD

Claim denied.

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NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: (Sgd.) A. Ivan Tummon
Secretary

Dated at Chicago, Illinois, this 28th day of January, 1955.