Award No. 6884
Docket No. DC-6989

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES, LOCAL 385

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Joint Council Dining Car Employees Local 385 on the property of the Chicago, Milwaukee, St. Paul and Pacific Railroad for and on behalf of Buffet Attendant William Massie and Assistant Buffet Attendant George White and others similarly situated; that they be compensated for all time loss, lost as a consequence of carrier's orders issued, effective April 4, 1953 on Trains 15 and 16 in violation of Rule 4(a) of the current agreement between the parties.

EMPLOYES' STATEMENT OF FACTS: In the current agreement between the parties, Rule 4 provides, among other things, that: (a) "Employes required to deadhead by order of the company with dining cars, shall be compensated at the pro rata rate for actual time deadheading with a maximum of 12 hours in a 24 hour period. Computing from reporting time to arriving time except when sleeping accommodations are available."

Carrier issued orders effective April 4, 1954 on Trains 15 and 16 which caused the Buffet Car Attendants and Assistant Buffet Car Attendant to deadhead from 6 A. M. to 8 A. M. each trip. The carrier refused to compensate the claimants for this time period.

POSITION OF EMPLOYES: In the instant case the carrier arbitrarily forced the claimant out of service for a two hour period and allocated such time to rest when in fact the claimants, in conformity with Rule 4 of the current agreement, should have been paid beginning 6 A. M.

It is difficult to understand how the carrier, after entering into an agreement wherein it is stipulated that the claimants' rest period, under Rule 4 began at 10 P. M. and ended at 6 A. M. can reconcile its action wherein it extends the Rule 4 time element from 6 A. M. to 8 A. M.

If the carrier, under these circumstances, is to be permitted to violate the agreement which they voluntarily entered into, it can by the same token extend other coordinating rules in such a fashion that the claimants, and others similarly situated, will be put in the position of working 24 hours out of 24 with no redress.

If the carrier be permitted to arbitrarily violate Rule 4 by literally forcing the claimants to stay in bed two additional hours, then the carrier can just as easily stagger the working hours under similar situations over a 24

provides that they were to be released from duty at 11:00 P. M. on Train 15 the second day and that their rest time on the trip was designated to be from 11:00 P. M. until 8:00 A. M. as it will be noted they were scheduled to report for duty the following morning at 8:00 A. M.

On the return trip on Train 16 they were scheduled to be released from duty at 11:00 P. M. the first day and their rest time on the trip was designated to be from 11:00 P. M. until 8:00 A. M. the following morning, as it will be noted they were scheduled to report for duty the following morning at 8:00 A. M. The schedule further provides they were to be released from duty at 12 Midnight the second day and that their rest time on the trip was designated to be from 12 Midnight until 8:00 A. M., as it will be noted they were scheduled to report for duty the following morning at 8:00 A. M.

In accordance with the provisions of current Schedule Rule 2 (f) quoted above, for the service which they performed on the grill car on Train 15 and 16 beginning April 4th, 1953 (as well as prior to that date) the time of the claimants has been counted as continuous for each trip from the time required to report for duty until released from duty, "except that actual continuous time authorized for rest on trip" has been deducted from the continuity of time where the interval of release from service was 3 hours or more and the employes have been paid for all such time. They have no proper claim for any additional payment.

The bar attendants and assistant bar attendants assigned to the grill car on Trains 15 and 16 have been paid for all service which they have been required to perform, in accordance with the schedule rules, and there is no basis for the additional payment sought by the claim which is here presented. We respectfully request, therefore, that the claim be declined.

All data contained herein has been handled with the employes.

(Exhibits not reproduced.)

OPINION OF BOARD: The Carrier's method of payment in the instant case was proper.

FINDINGS: The Third Division of the Adjustment Board, after giving the parties to this dispute due notice of hearing thereon, and upon the 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 record discloses no violation of 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 4th day of February, 1955.