

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Marion Beatty, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES LOCAL 370

THE NEW YORK CENTRAL RAILROAD

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees Union Local 370, on behalf of Grady Hall, waiter, and others similarly situated on Trains 15 and 16 on the property of the New York Central Railroad that they be reinstated to position as waiters on Trains 15 and 16 and compensated for all time lost retroactive to August 1, 1955, date of abolishment of said position as waiters on dining car crew on Trains 15 and 16 on account of unilateral abolishment of said positions while work of said positions remained rendering said abolishment of positions in violation of agreement.

EMPLOYEES' STATEMENT OF FACTS: Trains 15 and 16 operate New York to Cincinnati, Ohio and return. There are four dining car crews assigned to these trains. The crews work three days and lay-off the fourth day. The consist of dining car equipment on said trains is three double unit dining cars seating from 62 to 54 passengers at a single seating.

The initial dining car crew consist of this train was eight excluding out-of-car waiters. By force reductions Carrier decreased the dining car crew to seven, the work on said jobs yet remaining. Grady Hall and others similarly situated were the Nos. 7 and 8 waiters on each of the crews assigned to Trains 15 and 16. All work assigned to Nos. 7 and 8 waiters remained and was distributed among the remaining crew members.

On January 1, 1942, the effective date of the basic agreement between Carrier and Organization, all waiters on the property under the scope rule of that agreement were assigned to a station consisting of two tables with four seats on one side of the dining car and two seats on the opposite side. Subsequently, Carrier, without consultation or agreement on the part of the Organization, enlarged stations to four seats on each side, thus increasing the work load of the waiter from six to eight seats.

Dining car crews, since effective date of basic agreement, has been reduced from six to two or one, excluding the out-of-car waiters not listed but once assigned to all crews that position now being abolished.

The simple factual basis of this claim is that the work performed by the named claimants and others similarly situated on Trains 15 and 16 did not cease to exist when the positions were abolished but was distributed among the remaining employees.

All the facts and arguments herein presented were made known to the Employees during handling of the case on the property.

(Exhibits not reproduced.)

OPINION OF BOARD: The New York Central Railroad on August 1, 1955, reduced the number of waiters by one on "The Ohio State Limited," Trains Nos. 15 and 16.

This resulted in each waiter serving more seats and doing slightly more side-work, in other words, an increased work load. The Organization contends that this violated its agreement.

We find and hold:

(1) There is no rule in the agreement determining the size of crews of waiters.

(2) There is no rule in the agreement limiting the size of the station, the number of tables or seats that shall be served by a waiter or the side-work that may be assigned to him.

(3) The size of the crew or the work load of each waiter was not firmed-up by the agreement, nor did they become frozen as of the effective date of the agreement, for the reason that they were not dealt with, either specifically or by implication, in the agreement.

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 there was no violation of the agreement.

AWARD

The claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 30th day of September, 1957