

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Donald F. McMahon, Referee

PARTIES TO DISPUTE:

ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN,
PULLMAN SYSTEM

THE PULLMAN COMPANY

STATEMENT OF CLAIM: The Order of Railway Conductors and Brake-men, Pullman System, claims for and in behalf of Conductor A. W. Hyatt, San Antonio District, that:

1. Under date of January 6, 1956, extra Conductor S. P. Hinds, during the signout period from 9:30 A.M. to 10:30 A.M., was given an assignment on MK&T Train #8 with a reporting time of 11:40 A.M. January 7th and later in the day, he was also given a second assignment to Line 3549 with a reporting time of 9:15 P.M. January 6th.

Conductor Hyatt was available and willing to perform the service in Line 3549 which was the second assignment given to Conductor Hinds in violation of Rule 38.

2. We now ask that Conductor Hyatt be credited and paid for the assignment he was entitled to in Line 3549.

EMPLOYEES' STATEMENT OF FACTS:

I.

Rule 38 (c) requires that "A regular signout period shall be established in each district, at which time assignments shall be made for a succeeding 24-hour period. Such 24-hour period shall be designated as a signout day . . ."

The signout period in the San Antonio District is from 9:30 A.M. to 10:30 A.M.

Rule 38 (c) further provides that:

"Road service assignments and deadhead assignments shall first be grouped and shall be assigned chronologically with regard to time conductors are required to report for duty. Thereafter station duty assignments shall be made chronologically with regard to time conductors are required to report for duty."

pany cannot properly, as contended by the Organization, withhold an assignment beyond a "reasonable time" on the theory that an extra conductor out in service might arrive and might possibly be used in service.

CONCLUSION

In this ex parte submission, the Company has shown that Conductor Hinds was entitled to the station duty assignment he received on January 6, 1956, and that there has been no violation of Rule 38. Also, the Company has shown that the provisions of Award 6621 do not contemplate that an assignment must be withheld until approximately one hour prior to reporting time of the assignment. Further, no rule of the Agreement requires the Company to assign a regular conductor to an assignment which under the provisions of Rule 38(a) belongs to an extra conductor of the district involved.

The claim of the Organization that Conductor Hyatt was entitled to the assignment in Line 3549 and is entitled to be credited and paid for such assignment is without merit and should be denied.

All data contained herein in support of the Company's position have heretofore been submitted in substance to the employe or his representative and made a part of this dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: In accordance with the provisions of Rule 38(c), Carrier established at San Antonio, Texas, a daily signout period for Extra Conductors, between the hours of 9:30 A.M. to 10:30 A.M. at which time assignments shall be made for the signout day from 12:00 Noon to 11:59 A.M. the following day, such signout day covering a 24 hour period.

On January 6, 1956, the date here involved, there were three conductor assignments required to be filled on this day, as follows,

1. Line 3269, round trip, San Antonio to Dallas, reporting time 9:15 P.M., January 6. This was properly assigned to Conductor Braid.

2. Line Special, MKT No. 8, San Antonio to Portland, reporting time 11:50 A.M., January 7. This was properly assigned to Conductor Hinds, following recall from furlough.

3. Line 3549, station duty, San Antonio, with reporting time of 9:15 P.M., January 6. There being no available Extra Conductor for this assignment, during the signout period, no assignment was made.

Claim is made by the Organization, on behalf of Conductor Hyatt, that he be paid for the assignment on position Line 3549, on the contention that prior to his departure from San Antonio, January 5, 1956, he had notified Carrier's Superintendent he would be available for the assignment here involved. Contention is further made that Carrier's District Office was in contact with the Agent at Laredo, and had information that Hyatt was being dead-headed back to San Antonio by bus with scheduled arrival time 8:10 P.M. the same day. Hyatt returned to San Antonio and reported at 8:12 P.M., one hour

and three minutes before reporting time for the Line 3549 assignment reporting time. He was advised then, that the assignment had been given to Conductor Hinds.

The Organization contends the assignment made to Conductor Hinds was improper and in violation of the Agreement between the parties, in that, it constituted two assignments held by Hinds, and in addition Carrier had previous knowledge that Conductor Hyatt would arrive at San Antonio in time to take the assignment.

The record shows that Conductor Hyatt, on January 5, 1956, was not available during the signout period, he being on an assignment to Laredo, and there is no positive evidence in the record, he would return to San Antonio, in time to take the Line 3549 assignment as he was deadheading by bus to San Antonio, with scheduled arrival of about 8:00 P.M. The record shows the claimant was released from his deadhead assignment at 8:10 P.M. and reported for duty on the assignment here involved at 8:12 P.M. It is further shown by the record that following the closing of the signout period at 10:30 A.M., there were no conductors in San Antonio available to take the assignment Line 3549. The Carrier having no definite knowledge that the claimant would be available and return to San Antonio, in time to take the assignment, it alerted Conductor Hinds. Being informed by Hinds, he could not be located before 6:30 P.M., if he would be needed for the assignment, Carrier at 10:40 A.M. gave Hinds the station assignment.

Under the facts and circumstances of this docket, it appears that Carrier acted wholly within its rights under the agreement, in awarding the assignment to Mr. Hinds. Carrier knew that Hinds was available for the assignment, if the claimant was not available. It cannot be assumed that Carrier would have to await the arrival of claimant, who was traveling by bus, as to his exact arrival time, due to unforeseen causes which might delay his arrival, such as accident, traffic conditions, weather, etc. We conclude that for Carrier to be required to hold open the assignment for claimant to within an hour of reporting time was an unreasonable request, as contemplated by Rule 38(c). Carrier could have held up the assignment to 6:30 P.M. as the record shows, but the final result obtained would have been the same. Hinds would still have been the only available conductor who could be used. As has been stated previously by this Board, under the rule before us such rule must be interpreted on the particular facts in each situation on the basis of what is reasonable time in any given situation. Applying such situation here we conclude that Carrier has not violated the rules of the agreement, and the claim is without merit.

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 Employee involved in this dispute are respectively carrier and employee 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 as alleged.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: A. Ivan Tummon
Executive Secretary

Dated at Chicago, Illinois, this 8th day of April, 1959.