

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Martin I. Rose, Referee

PARTIES TO DISPUTE:

**ORDER OF RAILWAY CONDUCTORS AND BRAKEMEN,
PULLMAN SYSTEM**

THE PULLMAN COMPANY

STATEMENT OF CLAIM: The Order of Railway Conductors and Brakemen, Pullman System, claims for and in behalf of Conductor W. Jacobchick, Denver District, that:

1. Rule 40 of the Agreement between the Company and its Conductors was violated by the Company on March 17, 1956, when the Company failed to recall Conductor Jacobchick as required by the rule.

2. On March 17th Conductor C. W. Morrison, junior in seniority to Conductor Jacobchick, was recalled from furlough.

3. Conductor Jacobchick be credited and paid under applicable rules of the Agreement for the work performed by Conductor Morrison.

EMPLOYES' STATEMENT OF FACTS:

I.

On March 17, 1956, the Denver District had four extra Conductor requirements.

On this date there were three Conductors on the extra board of the Denver District. However, one of these three was unavailable.

Hence prior to the signout period there were four known requirements and only two available Conductors.

The Company then decided to recall two Conductors from furlough.

II.

Recall from furlough is in part controlled by Rule 40, which reads as follows:

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

(Exhibits not reproduced.)

OPINION OF BOARD: In the absence of evidence that, under the circumstances of this case, Claimant was available to receive the written notification referred to in Rule 40 during the period specified in Rule 39 in regard to recall, Claimant has failed to sustain the burden of proof. Accordingly, the claim must 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 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, in accordance with the Opinion, the evidence is insufficient to warrant a finding that the agreement was violated.

AWARD

Claim denied in accordance with the Opinion and Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois this 21st day of September, 1960.