Award No. 9689
Docket No. PC-9666

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Frank Elkouri, 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 A. A. Bell, Chicago Western District, that:

1. The Pullman Company violated Rule 38 of the Agreement between The Pullman Company and its Conductors when on November 24, 1955, they failed to assign Conductor Bell to C B & Q Trains 47-48, which assignment was given to Conductor J. A. Barkley. Reporting time for this assignment was 9:15 P. M.

2. We now ask that Conductor Bell be credited and paid for the assignment due him which was given to Conductor Barkley.

EMPLOYES' STATEMENT OF FACTS:

I.

On November 24, 1955, Conductor Bell had on file with the Chicago Western District the following telephone number:

GReenleaf 5-6934.

This telephone was located in Conductor Bell's residence in Evanston, Illinois.

Filing of this number with the Chicago Western District constituted a pledge by Conductor Bell that this phone would be guarded by Conductor Bell or his representative throughout the daily signout period (1:00 P. M. to 3:00 P. M.) on such days as Conductor Bell was available for assignment.

Acceptance of this number as filed by Conductor Bell constituted a pledge by the Company that it would, as a first step, endeavor properly to

11, 12 hours, or more after the assignment is given (Rule 38 (c)). Whether the reporting time for the assignment is one hour or 23 hours after the assignment is given, under the rules, has no bearing on a conductor's availability during the signout period.

CONCLUSION

In this ex parte submission the Company has shown that Conductor Bell was not available for assignment during the signout period, November 24, 1955, and that the Company properly assigned Conductor Barkley to the trip on CB&Q train 47-48, Chicago-Seattle, and return, departure time 9:15 P. M., same date. Further, the Company has shown that Third Division Award 3845 does not support the Organization's contentions in this dispute.

The Organization's claim that Conductor Bell be credited and paid for the assignment given Conductor Barkley, Chicago-Seattle, and return, is without merit and should be denied.

All data presented herewith 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: The Organization recognizes in this case that the filing with the Carrier of a telephone number where Claimant was to be reached for assignment purposes "constituted a pledge by Conductor Bell that this phone would be guarded by Conductor Bell or his representative throughout the daily signout period (1:00 P. M. to 3:00 P. M.) on such days as Conductor Bell was available for assignment". Also, in the "Position of Employes" in Docket No. PC-8740, Award 8722, involving the same Parties and rules involved herein, the Organization stated that "There is one and only one period in the course of the day when each and every eligible extra Conductor is **required** to be available for assignment, namely, the regular daily signout period". (Emphasis added.)

In the present case there is serious doubt that Conductor Bell fulfilled his pledge that his phone "would be guarded by Conductor Bell or his representative throughout" the signout period — the Carrier called Claimant three times over a period of seventeen minutes during the signout perior, Claimant's phone apparently was in working order, the Telephone Company Operator was questioned at least once to insure that she was ringing the right number, but Claimant's phone was not answered. In any event, the Record herein is in serious conflict as to whether Conductor Bell was available, and this Board has no means or resolving such conflicts in the Record. The claim must be dismissed.

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 the claim should be dismissed for reasons stated in Opinion.

AWARD

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 7th day of December, 1960.