

Award No. 10084

Docket No. MS-12589

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

PARTIES TO DISPUTE:

W. P. BARBER, et al

THE PULLMAN COMPANY

STATEMENT OF CLAIM: Claim is hereby made on behalf of Pullman Porters residing in the Houston area to have pullman jobs on Line 4506 (Houston-Richmond, California) assigned to the Houston District.

The present assignment of said run violates the effective agreement, is of a continuing nature, and the porters of the Houston District have a present right to the assignment of said run.

OPINION OF BOARD: The record shows that, prior to June 16, 1958, Line 4506 operated between Emeryville, California (a part of the San Francisco Metropolitan and Bay area) and Houston, Texas, with San Francisco District porters assigned to operate the line, and that, effective with that date, account change in train operations, Line 4506 was changed to operate between Richmond, California (also a part of the San Francisco Metropolitan and Bay area), and Houston, Texas, with San Francisco District porters continuing to operate the line.

On March 10, 1961, Petitioner filed claim on Carrier contending that the run with Richmond as the terminal is new service, and that, under rules of the effective agreement between Carrier and Brotherhood of Sleeping Car Porters, the run should be awarded to Houston District porters. In support of its claim, Petitioner cites Rule 39, Assignment of Runs to Districts. Carrier denied the claim.

Carrier states that, over a period of years, Rule 39 has not been construed as applicable to changes of terminals within the San Francisco Metropolitan and Bay area, which includes Emeryville, Richmond and Oakland, and that the Brotherhood of Sleeping Car Porters has concurred in and accepted this construction of Rule 39. Petitioner does not deny this.

Based on the record, we conclude that the interpretation of the rules placed thereon and acquiesced in by the parties thereto, as evidenced by long practice, is controlling and requires a denial award.

In view of the decision reached on merits, it is unnecessary to comment on the other issues raised in this docket.

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 agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **THIRD DIVISION**

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of September, 1961.