

Award No. 10995

Docket No. PC-12274

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Levi M. Hall, 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 H. N. Chancey, Penn Terminal District, regularly assigned conductor to the train known as "The Champion," PRR-RF&P-ACL-FEC 105-1 and 2-104, between New York and Miami, for accounting purposes designated as Line 6800, that:

(1) The Pullman Company violated Rules 10 and 22 of the Agreement between The Pullman Company and its conductors when, on February 23, 1960, Conductor Chancey was required to perform station duty at the New York Penn Terminal Station from 11:55 A. M. to 12:30 P. M., same date, and

(2) Conductor Chancey should be credited and paid 6:50 hours (less 35 minutes paid), as provided in Paragraph (b) of Rule 10 of the Agreement, for this station duty.

Rules 4, 5, 6, 12, 13, 15 and 20 are involved.

EMPLOYES' STATEMENT OF FACTS:

I.

There is an Agreement between The Pullman Company and its Conductors governing working conditions and rates of pay, dated September 21, 1957, a copy of which is on file with this Board, and by this reference is made a part of this dispute.

II.

Conductor H. N. Chancey holds seniority in the Penn Terminal District. On February 23, 1960, Conductor Chancey was a regularly assigned conductor on the train known as "The Champion," PRR-RF&P-ACL-FEC 105-1 and 2-104, for accounting purposes designated as Line 6800, between New York, N.Y., and Miami, Florida.

specific layovers shall be prescribed in operating schedules for regular assignments. In the instant case the Company met the requirements of the rule and prescribed specific layovers in the operating schedule for the assignment in Line 6800.

The Company submits that the Organization has not proved and cannot prove violation of Rules 10 and 22 or any other rule of the Agreement in connection with the manner in which Conductor Chancey was credited and paid on February 23, 1960. Clearly, the Organization has not assumed its burden of establishing facts sufficient to require the allowance of the claim. See Third Division Awards 5976 and 7362.

CONCLUSION

In this ex parte submission the Company has shown that Conductor Chancey properly was credited and paid under the provisions of Rules 6 and 20 for work incident to his regular assignment and that no station duty work was involved. Also, the Company has shown that there has been no violation of Rules 10 and 22 or any other rule of the Agreement. Finally, the Company has shown that Awards of the National Railroad Adjustment Board support the Company in this dispute.

The claim in behalf of Conductor Chancey is without merit and should be denied.

The Company affirms that all data submitted herewith in support of its position heretofore have been submitted in substance to the employee or his representative and made a part of this dispute.

(Exhibits not reproduced.)

OPINION OF BOARD: Conductor H. N. Chancey, the Claimant, was a regularly assigned Conductor on the train known as the "Champion", for accounting purposes designed as Line 6800, between New York, N.Y., and Miami, Florida. Under the provisions of Rule 15 of the Agreement, the Pullman Company issued an "Operation of Conductors" form covering the conductor run that was in effect on the date of the claim which provided for arrival at the home terminal New York at 10:50 A.M. and release from duty at 11:10 A.M. It is agreed between the parties that the uniform release time established by the Company for Penn Terminal Station is 20 minutes.

It is the contention of the Claimant that on February 23, 1960, the "Champion" was scheduled to arrive in Penn Terminal Station, New York, at 10:50 A.M. but was 45 minutes late and actually arrived at 11:35 A.M.; and that Claimant was scheduled to be released from duty at 11:55 A.M., February 23, 1960; that there were so many cars on the "Champion" that the two rear Pullman cars did not reach the station platform; that Claimant realized that passengers holding accommodations in the two rear Pullman cars could not detrain under the circumstances without subjecting themselves to danger because those cars had not reached the platform; that he contacted the Station Master's office and advised him of the situation and after passengers and baggage had been unloaded from the cars that had reached the platform, the Station Master ordered the train be moved forward so that the two rear Pullman cars would reach the platform and the passengers could be safely unloaded; that this operation took an additional 35 minutes after the train had arrived at the station and beyond Claimant's normal release time and

Claimant was required to remain on duty in the station for 35 minutes after he was scheduled to be off duty; that he should be credited and paid 6:50 hours (less 35 minutes paid) as provided in Rule 10(b).

Rule 10(b) is, as follows:

"RULE 10. Station Duty.

"(b) When a regularly assigned conductor is required to perform station duty, load trains, or when called and reporting for service and not used, such time shall be credited on the hourly basis and paid for in addition to all other earnings for the month, with a minimum credit of 6:50 hours for each call, except as provided in paragraph (d) hereof."

Paragraph (d) of Rule 10 is not applicable in this case.

The Company maintains that the "Champion" did not arrive in the Penn Terminal Station until all the cars on the train, including the two rear Pullman cars, had reached the station platform at 12:10 P. M.; that the Claimant's uniform release time applied from the time all the cars reached the platform, not before, and that Claimant concluded his duties on his regular assignment, including release time, at 12:30 P. M.; that the work performed by Claimant in connection with the discharging of passengers and luggage from the two rear Pullman cars, to which he was assigned, was an integral part of his assignment and cannot be logically classified as station duty work; Claimant has been paid under the Rules governing late arrival rather than of late release and he has been compensated properly in an allowance of excess hours for the month; that Rules 6 and 20 of the Agreement are controlling.

Rule 6 provides as follows:

"RULE 6. Regular and Extra Service.

"Time for regular and extra service (except in reference to deadhead service as provided in Rule 7) shall be credited from time required to report for duty at the uniform reporting time until released at the uniform release time, subject to the provisions of Rules 13, 14 and 23."

Rule 20 sets forth the manner in which regularly assigned conductors shall be paid.

The parties, frankly, are in disagreement as to when, within the meaning of the Rules, the "Champion" arrived at the Penn Terminal Station. A train pulls onto a track leading into a station, the train stops and the passengers are detrained. When a train stops for that purpose it has reached its destination, it has arrived. The Pullman conductor has no control over the movement of the train. Any subsequent moving of the train and a subsequent stopping of the train could be construed, at most, as a re-arrival. The position of the Company is not tenable. The "Champion" arrived at 11:35 A. M. and Claimant's normal release time, under the circumstances, was 11:55 A. M.

We must now concern ourselves with a consideration as to whether or not the duty performed by Claimant after the expiration of his release period was station duty. He had an obligation to handle passengers in a

safe manner, to remain with the cars until the passengers were properly discharged. What he was doing was protecting the Company's interest and the passengers' welfare by staying with the train beyond the release time provided for in the Company's form. This was extra service which constituted station duty within the meaning of Rule 10.

Claimant should be paid 6:50 hours (less the 35 minutes time already paid for) as provided for in Rule 10(b) of the Agreement.

Rule 64(e) has been considered but does not affect the conclusion arrived at.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

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 has been a violation of the Agreement.

AWARD

Claim sustained 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 19th day of December 1962.

DISSENT TO AWARD NO. 10995, DOCKET NO. PC-12274

Award 10995 obviously is in error in sustaining the instant claim under Rule 10(b), which rule, in plain and unambiguous language, applies to employees specifically called for station duty, etc., whereas the trip of claimant's regular assignment in the instant case was not completed until the final stop which placed the last two cars of the train at the station platform.

For the foregoing reason, among others, we dissent.

W. H. Castle
P. C. Carter
R. A. Carroll
D. S. Dugan
T. F. Strunck