

Award No. 11012

Docket No. PC-11255

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Robert J. Ables, 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 C. E. Stiffler, Washington District, that The Pullman Company violated Rules 25, 38, and 22 of the Agreement between The Pullman Company and its Conductors, when:

1. On January 6, 1958, Conductor C. F. Slaughter, Baltimore District, was assigned to operate on PRR train No. 176, Washington, D.C., to New York City, N.Y.

2. Because of this violation we now ask that Conductor Stiffler be credited and paid not less than 6:50 hours, a minimum day, for an extra service trip Washington to New York City, on PRR No. 176, and not less than 6:50 hours, a minimum day, for a deadhead trip New York to Washington, or a total of 13:40 hours.

EMPLOYES' STATEMENT OF FACTS:

I.

There is an Agreement between the parties, bearing the effective date of September 21, 1957, on file with your Honorable Board, and by this reference is made a part of this submission the same as though fully set out herein.

For ready reference and convenience of the Board, the most pertinent parts of Rules which are directly applicable to the dispute are as follows:

RULE 9. Held for Service.

Q-1. What is incomplected regular service?

A-1. Service which is terminated at a point where no specified layover is established; however, regular service that is interrupted where no specified layover is established because of either an "act of God" or an "emergency" and Pullman

Rule 25. Basic Seniority Rights and Date defines the seniority of a conductor and provides that no deduction shall be made from the seniority of conductors for time spent on leaves of absence, furloughs or sickness. The rule further provides that in any district, the right to perform Pullman conductor's work, as established by past practice and custom, shall belong to the conductors having seniority in such district, subject to certain exceptions. This rule has no application in the case at hand. The right of conductors to operate on trains which do not carry Pullman equipment is not established by past practice and custom.

Rule 38. Operation of Extra Conductors provides in general the manner in which extra work of a district shall be assigned to the extra conductors of that district. This rule has application only where there is extra work to be performed by Pullman conductors. In the instant case, there was no extra work to be performed and Rule 38 was not applicable. Conductor Slaughter was assigned to proceed to New York on PRR train 176 and to make refunds to passengers who had transferred to that train from Pullman cars on B&O train 6. The making of refunds, however, is work often performed by employees other than conductors and is not work to which extra conductors are entitled. Consequently, extra Conductor Stiffler, the claimant, was not entitled to the work in question.

CONCLUSION

The Company has shown that assignment of a conductor to PRR train 176 on the date in question was not mandatory and that none of the rules cited by the Organization was violated. Therefore, the claim should be denied.

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

(Exhibits not reproduced.)

OPINION OF BOARD: The essential facts are not in dispute. Conductor Slaughter of the Baltimore District held a regular assignment between Baltimore and Chicago, one leg of which included his assignment on B&O Train 6 from Washington to Jersey City. On January 6, 1958, B&O Train 6 arrived late in Washington and was annulled at that point. Passengers who held space beyond Washington on B&O Train 6 that date were handled in the coaches on P.R.R. Train 176. This train carried no Pullman equipment. Conductor Slaughter, who held no seniority in the Washington District, was instructed to ride P.R.R. 176 from Washington to New York to make refunds to passengers holding Pullman space on annulled B&O Train 6. The claim here is on behalf of Extra Conductor Stiffler of the Washington District who was not called to perform the work on the P.R.R. Train 176 between Washington and New York.

The Employees' basic position is that Conductor Slaughter was ineligible to serve on P.R.R. 176 and that Washington District extra conductor Stiffler should have been given that assignment in accordance with Rule 38, which requires that extra work in a district go to the senior extra Conductor.

The Pullman Company relies on Rule 64 primarily and contends that since there is no agreement requiring Conductors on coach trains, there can be no violation if a Conductor is not assigned to such a train.

The Employees concede the Company's view that the Company is not obliged to use a Conductor on coach trains but argue that where the Company does require a Conductor to perform work on such train the work must be assigned in accordance with the extra-work rule (Rule 38). This position is well taken.

Whatever else happened when the B&O Train was annulled at Washington, Conductor Slaughter was relieved of the duty to perform work between Washington and Jersey City. No matter how sensible it was, from a sound management standpoint, to work Conductor Slaughter who was going to Jersey City anyway to complete his assignment, the rules which we are asked to interpret do not give the Company this latitude. When the Company decided to accommodate the disappointed passengers in Washington by using a Conductor to refund them for their unused Pullman space, this was new or extra work and Rule 38 should have been observed. The Company was not obliged to use a Conductor to make these refunds but when it decided to do so the Company should have observed the applicable seniority rule (Rule 25). There is sufficient uncontested evidence in the record to establish that assignment of Conductors on coaches to make refunds have been made in accordance with such seniority rules. The same rules should have been followed here.

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 the Agreement was violated.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 20th day of December 1962.