Award No. 12247
Docket No. DC-13494

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

John H. Dorsey, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYEES (Local 372)

UNION PACIFIC RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees, Local 372, on the property of Union Pacific Railroad Company for and on behalf of F. Paul Ruebhausen, Shedrich Greene, Roy Snow, and Kenneth S. Walker, that they be compensated for one-half day's pay as a consequence of Carrier's violation of Rule 6 (i) and (d), Article II, Part I of the Agreement currently in effect between the parties.

EMPLOYES' STATEMENT OF FACTS: The foregoing claim was filed with the Carrier on October 17, 1961 by letter directed to Carrier's Superintendent Dining Car and Hotel Department (Employes' Exhibit A).

Under date of October 19, 1961, the Carrier's District Superintendent replied declining the claim (Employes' Exhibit B).

Promptly upon receipt of the declination of the claim, Organization appealed the claim to Carrier's Manager Dining Car and Hotel Department, the highest officer designated on the property by Carrier to consider the appeal (Employes' Exhibit C). The appeal was declined under date of October 25, 1961 by Carrier's Manager Dining Car and Hotel Department (Employes' Exhibit D).

Claimants reported for regular assignment for the second section trains 103-104, City of Los Angeles, Chicago and return on September 6, 1961. On that day they departed terminal at Los Angeles. The fact is undisputed that on the date of departure from Los Angeles (Claimant's home terminal), their assignment was a regularly bulletined and subsisting assignment.

Claimants worked this assignment to Chicago and on arrival Ogden, Utah, September 9, 1961, carrier removed claimants from service and instructed them to dead head to Los Angeles, their home terminal, on Train No. 9 (City of St. Louis). Claimants arrived at their home terminal in the afternoon of September 10, 1961. Had claimants not been removed from their regular assignment they would have arrived their home terminal, Los Angeles, in the morning of September 10, 1961. During the claimed time that claimants were deadheading on Train No. 9, the diner on Train No. 9 served lunch, involving

OPINION OF BOARD: During the summer vacation period Train 103-104 "City of Los Angeles" ran in two sections. Claimants were the crew assigned to Cafe Lounge service on a coach section with Los Angeles their home terminal; Chicago the away-from-home. They departed Los Angeles on September 6, 1961. On the return trip, at Ogden, Utah, on September 9, the sections of the train were consolidated and Claimants' assignments were abolished. Claimants were deadheaded to Los Angeles on Train 9-10 with arrival at their home terminal at approximately 1:00 P. M. on September 10. The consolidated "City of Los Angeles" arrived the same date at about 10:15 A. M. Claimants received the same pay as though they arrived on the "City of Los Angeles."

Had Claimants' assignments not been abolished they would have begun a layover when they arrived at Los Angeles.

The claim prays for an additional one-half day's pay for each Claimant for September 10. Petitioner argues that because of the difference in times of arrival of the "City of Los Angeles" and Train 9-10, Claimants lost part of a layover day for which they are entitled to pay by the terms of Rule 6 (d) of the Agreement which reads:

"RULE 6. EXTRA SERVICE

* * * * *

(d) Employes used for service out of home or away from home terminal on scheduled layover days will be paid on basis of additional day at daily rate of the assignment for each layover day lost. Where a part of layover day is lost, employe will be paid on the basis of additional half day for one meal period and one additional day for two or more meal periods in one day."

Further, Petitioner argues that the Agreement mandates the inclusion of the word "deadheading" in and for the word "service" in Rule 6 (d). In support it points to Rule 6 (i) which reads:

"(i) Deadheading in connection with service will be paid for on the same basis as service . . ."

Rule 6 (i) does not provide that an employe "deadheading" is in the same status as an employe "used for service". It only formulates the basis of pay of an employe "Deadheading in connection with service".

The words "used for service" in Rule 6 (d) connotes a working employe; "deadheading," a travelling employe performing no duties on the train. It is significant that Rule 6 (i) reads "Deadheading **in connection with service**" and not "Deadheading in service".

In interpreting Rule 6 (d) it must be read in the context of Rule 6 as a whole. The Rule, as its caption portends, prescribes rates of pay for EXTRA SERVICE.

The Claimants, herein, performed no extra service. True, they arrived at their home terminal about three hours later than they would have had had their assignments not been abolished. Had this extended their total hours for the month beyond 240, Rule 6 (b) prescribes the formula for computing pay

for the additional time. The record shows that including the three hours, Claimants, during the month, worked less than 240 hours.

Rule 6 (c) prescribes the rate of additional pay for serving an extra meal or meals because of delays to a train. Claimants served no extra meals.

Rule 6 (d), insofar as here material, deals only with a situation where an employe is "used for service out of home or away from home terminal on scheduled layover days." The undisputed facts demonstrate that Claimants were not used for service out of home or away from their home terminal. This being so, Rule 6 (d) is not applicable. We will deny the claim.

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 Carrier did not violate the Agreement.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1964.