

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

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 R. L. Baker, Norfolk Agency, that Rules 38 and 25 of the Agreement between The Pullman Company and its Conductors were violated when:

1. Under date of October 23, 1962, Conductor Baker was not given an assignment to deadhead from Norfolk, Va., at 9:55 P.M., for Raleigh, N.C., to protect the conductor run on Southern Trains 13 and 16, for accounting purposes designated as line 6854, between Raleigh and Greensboro, N.C.

2. Because of this violation we now ask that Conductor Baker be credited and paid not less than a minimum day, 6:50 hours, for a deadhead trip Norfolk to Raleigh, and for 10 round trips on Southern Trains 13 and 16 between Raleigh and Greensboro, or a total of 15 days, and, completion of the 10 round trips in the run on Southern Trains 13 and 16, a deadhead trip Raleigh back to Norfolk of not less than a minimum day, or a total of 17 days' pay.

EMPLOYES' STATEMENT OF FACTS: There is in full force and effect a collective bargaining Agreement, dated September 21, 1957, entered into by and between The Pullman Company, hereinafter referred to as Company or Management, and the Order of Railway Conductors and Brakemen, Pullman System, hereinafter referred to as Employees or Organization. Copy of this Agreement is on file with this Division of the Adjustment Board, and is by reference included in this submission as though set out herein word for word.

I.

Effective September 20, 1962, the Southern Railway Company discontinued its operation of Trains 13 and 16 between Greensboro and Goldsboro, N.C. The Southern Railway Company discontinued the operation of Trains 13 and 16 under the sanction of the Interstate Commerce Commission (ICC).

extra conductor and that the Company would have been liable for a claim from Conductor Baker if his assignment in Line 6777 had been cancelled on October 24 in order to assign him to Line 6854. Further, the Company has shown that confirmation of the restoration of Line 6854 on October 24 was not received by Norfolk until 9:50 A.M. on that date, which fact made it impossible to place a conductor in Raleigh in time to handle Line 6854 between Raleigh and Greensboro.

Finally, the Company has shown that the assignment of Conductor Saxon to deadhead Greensboro and go into service in Line 6854 was proper under the Agreement.

The Organization's claim in behalf of Conductor Baker is grossly excessive, it is lacking in support of the rules of the Agreement, and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The issue here is a narrow one. Was the Pullman Company obliged to make a conductor assignment in time to meet the scheduled departure time of a train where the railroad had been ordered by the Federal District Court to re-institute service, previously discontinued, when the railroad was hoping to get a stay of this order on appeal?

Since the Company did not make this assignment in time for the conductor to meet the departure time of the train, the Company was obviously betting that the appeal would be successful. Having lost the bet, the Company is in a poor position to defend against the claim on grounds of emergency.

The claim should, therefore, be sustained, and for the full 17 days, since the Memorandum of Understanding of September 21, 1957 provides:

"... it is understood that if a Pullman conductor presents a claim that he was not given an assignment to which he was entitled ... and that claim is sustained, he shall be paid for the trip he lost in addition to all other earnings for the month."

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 23rd day of November 1964.