

Award No. 13203

Docket No. DC-14774

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

(Supplemental)

Arnold Zack, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF RAILROAD TRAINMEN

THE PENNSYLVANIA RAILROAD COMPANY

STATEMENT OF CLAIM: Docket No. S-697.

Time claim filed for and on behalf of B. H. Smith, Steward, alleging that he was "run around" because of the use of a Waiter-in-Charge on Train 548 from Harrisburg to Washington and return on May 24, 1963.

EMPLOYES' STATEMENT OF FACTS: The Claimant, Mr. B. H. Smith, on the date listed in the instant claim was assigned to the Stewards' Extra List which protects the service of the New York Seniority District and any extra service originating on said District requiring a Dining Car Steward's services. On the date indicated in the instant claim a Waiter-in-Charge was assigned to the dining car on Train No. 548 from Harrisburg, Pa. to Washington, D. C. This Dining Car contained forty-eight (48) seats and should have had a Steward-in-Charge of the Dining Car. Appendix "A" of the Schedule of Regulations and Rates of Pay for the Government of Dining Car Stewards reads as follows:

"APPENDIX 'A'

It is agreed, subject to exceptions under paragraphs A, B, and C, that a steward will be assigned to a dining car, when such car is a "standard dining car", and operated for the exclusive purpose of rendering meal service at tables to at least thirty (30) persons simultaneously.

EXCEPTIONS

(A) Except during peak periods not to exceed 15 days, after all available stewards at the home terminal from which the assignment originates have been assigned to service on "standard dining cars".

(B) Except when a "standard dining car" is used in place of a:

Cafe Coach Car;	Diner - Club car, fixed or convertible.
Cafe - Lounge - Parlor Car;	Diner - Lounge Car, fixed or convertible.
Parlor - Lounge - Buffet - Coach Car;	Diner - Parlor Car, fixed or convertible;

It is respectfully submitted that the National Railroad Adjustment Board, Third Division, is required by the Railway Labor Act to give effect to the said Agreement and to decide the present dispute in accordance therewith.

The Railway Labor Act, in Section 3, first, subsection (i), confers upon the National Railroad Adjustment Board the power to hear and determine disputes growing out of "grievances or out of the interpretation or application of Agreements concerning rates of pay, rules and working conditions". The National Railroad Adjustment Board is empowered only to decide the said dispute in accordance with the Agreement between the parties to it. To grant the claim of the Employees in this case would require the Board to disregard the Agreement between the parties thereto and impose upon the Carrier conditions of employment and obligations with reference thereto not agreed upon by the parties to this dispute. The Board has no jurisdiction or authority to take such action.

CONCLUSION: The Carrier has shown that there was no violation of the Rules Agreement in this dispute and that the Employees have failed to present any proof whatever to the contrary.

Therefore, the Carrier respectfully requests that your Honorable Board deny the claim of the Employees in this matter.

(Exhibits not reproduced).

OPINION OF BOARD: Except for date this case involves a fact situation identical to that presented in Award 13202. Accordingly there is no need to reiterate the facts, contentions of the parties, or reasoning of the Board in arriving at its decision to deny the claim. Reference to the earlier award suffices.

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 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 13th day of January 1965.