Award No. 13487

Docket No. DC-14834

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION
(Supplemental)

Levi M. Hall, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYES, LOCAL 516

GREAT NORTHERN RAILWAY COMPANY

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employes Local 516 on the property of the Great Northern Railway Company, for and on behalf of Lounge Car Attendant Paul Wood, that he be paid for one additional hour per trip while assigned to Carrier's Trains Nos. 31-32, commencing with the trip completed June 29, 1963, account of Carrier's failure to pay claimant for all hours he is on duty, in violation of the Agreement.

EMPLOYES' STATEMENT OF FACTS: The claim herein involved was initiated via the following letter:

"September 25, 1963

"Mr. J. W. Kirby, General Superintendent
Dining Car Department.
Great Northern Railway Company,
St. Paul 1, Minnesota

Dear Sir:

This constitutes our claim for and in behalf of Attendant Paul Wood for one (1) hours' pay per trip at his current rate of pay, for as many trips as he has made and/or will make commencing with the trip ending June 29, 1963, This claim is a continuing claim and is in effect until such time that it is satisfactorily settled.

BASIS FOR CLAIM:

1. Mr. Wood is a regularly assigned Attendant on the Empire Builder, Trains nos. 31 and 32 and claimed one (1) hours additional compensation for each trip completed commencing with the trip ending June 29, 1963. Trips completed by Mr. Wood since the instruction of his claim to date are as follows:

Trips Completed	Additional Time Claimed
June 29, 1963	1 hour
July 9, 1963	1 hour
July 19, 1963	1 hour

When Rule 29 (b) was placed in the Dining Car Employes' Schedule, and when it was first written for the Dining Car Stewards' Schedule, all concerned were well aware of the fact that the Carrier's operation is conducted in three different time zones. With this obvious fact before them, the parties chose to express release periods in terms of specified times rather than in reference to a fixed number of hours.

From its scant offerings, it appears that the Organization is arguing that the rule does not have the meaning which is clearly stated in the language used. No contention is made that the claimant neither was released at 10:00 P. M. nor compensated at pro rata rate for any excess hours thereof. Instead, the Organization has disregarded the first two days of a hypothetical run on The Empire Builder and then has compared the total duty hours of a westbound trip with those of an eastbound trip. The difference therein, which is inevitable for any operation involving more than one time zone, is offered as the sole basis for this claim.

A contention such as this flies in the face of the clear provisions of Rule 29 (b) and departs from the obvious intention of the contracting parties.

What is more, this claim is contrary to the parties' own accepted practices which have been followed in the two decades since the rule was written.

As previously mentioned, the Organization has not presented to the Carrier any precise facts or contentions regarding these claims. Therefore, the Carrier must reserve any specific comments regarding this dispute for its Reply. In any event, nothing occurred on Trains 31 and 32 at the time these claims were filed which departed from the parties' accepted practices or from the requirements of any schedule rule or agreement.

This claim thus is without substance or validity on both the basis of the parties' Time Limit Agreement and on its merits. For these reasons, the Carrier asks that it be denied.

(Exhibits not reproduced).

OPINION OF BOARD: The issue submitted for decision in the instant case is whether, under the existing rules of the agreement between the Carrier and the Joint Council of Dining Car Employes, elapsed time or clock time shall be the method of compensation for Lounge Car Attendants who were worked out of St. Paul, Minnesota, and were assigned to make trips which commenced eastward from St. Paul to Chicago, Illinois, thence westward through St. Paul to Seattle, Washington, and finally eastward from Seattle to St. Paul.

In Fourth Division Award 1978—(Referee Jacob Seidenberg) precisely the same issues were presented to that Board involving the identical agreement, the same parties and the same property. Though the employes involved in that award were Train Porters there is no variance between the questions presented there and those in the instant matter. We can find no fault with the conclusion arrived at there and will accept it as a controlling precedent on this property.

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 respec-

tively 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 there has been no violation of 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 April 1965.