

Award No. 13954
Docket No. PC-15193

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

William H. Coburn, 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 E. P. Kinsinger, Los Angeles District, that he is entitled to held-for-service time under the provisions of Question and Answer 9 to Rule 9, Rule 9(a), and the Memorandum of Understanding Concerning Annulment of Runs (p. 62, the current Agreement), as follows:

Released in Williams Junction 11:00 PM, June 1, 1964
Scheduled to report Williams Junction 10:25 PM, June 3, 1964
Total elapsed time 47.25 hours
Due held-for-service time (Rule 9 (a)) 12:00 hours
Released in Williams Junction 11:00 PM, June 14, 1964
Scheduled to report Williams Junction 10:25 PM, June 16, 1964
Total elapsed time 47:25 hours
Due held-for-service time (Rule 9 (a)) 12:00 hours
Total payment due for held-for-service time 24:00 hours
Thus, Rule 9 was violated.
Rules 13 and 58 were also violated.

EMPLOYES' STATEMENT OF FACTS: There is an Agreement between the parties, bearing the effective date of September 21, 1957, revised effective January 1, 1964, and amendments thereto, 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.

During the period involved in this claim, Conductor Kinsinger was regularly assigned to the conductor run on SFe trains 14 and 15 between Williams Junction and Grand Canyon, Arizona, for accounting purposes designated as Line 4512.

Williams Junction is a home terminal; Grand Canyon is the opposite or away-from-home terminal.

Under the terms of Rule 15 of the Agreement, The Pullman Company issued an Operation of Conductors Form covering the conductor run on SFe trains 14 and 15.

singer was in his regular operation in Line 4512 on June 1 and 14, 1964, and that the run operated in the precise manner set forth in the conductor's operating form covering the run. The fact that one of the two regular cars was annulled by the Santa Fe at the opposite terminal, Grand Canyon, obviously did not constitute an annulment of Conductor Kinsinger's regular run by The Pullman Company. Further, the Company has shown that the fact Conductor Kinsinger did not have his normal burden of work to perform on his return trip assignment cannot logically be construed as constituting an annulment of the run. Finally, the Company has shown that the Organization has failed to sustain its responsibility of presenting facts sufficient to justify the allowance of the claim.

Inasmuch as it has been shown that no rule of the Agreement has been violated in the manner in which regular Line 4512 was operated on June 1 and 14, 1964, the Company submits the claim in behalf of Conductor Kinsinger is without merit and should be denied.

(Exhibits not reproduced.)

OPINION OF BOARD: The material facts are not in dispute. Claimant Conductor was regularly assigned in June of 1964 to Line 4152 from Williams Junction, Arizona, (his home terminal), to Grand Canyon, Arizona, and return on Santa Fe Railroad trains Nos. 15 and 14. On the outbound trip, Williams Junction to Grand Canyon, Claimant was in charge of two Pullman cars. On the return trip, he handled one car destined to Chicago, Illinois, and one car destined to Los Angeles, California. The latter was turned over to the Conductor on Santa Fe train No. 17 at Williams Junction, enroute to Los Angeles, at 10:50 P.M. The eastbound Chicago Car was turned over to the Conductors of train No. 18, enroute to Chicago, at 7:05 A.M. the following morning. Claimant conductor was then released from duty at 7:15 A.M. He did not report for his next tour of duty until 10:25 P.M. of the following day.

The incidents giving rise to this claim occurred on June 1 and 14, 1964, at Grand Canyon when the car destined for Chicago was annulled by the Santa Fe so that the Claimant was in charge of only one car, destined for Los Angeles, when he returned to Williams Junction. He turned this car over to the westbound Conductor at 10:50 P.M. at Williams Junction on the aforesaid dates and released himself from duty at 11:00 P.M.

The claim is for 24-hours "held-for-service" time under Rule 9, and, specifically, Question and Answer 9 thereto, which read:

"Q-9. Shall a regularly-assigned conductor be credited and paid held-for-service time on return to his home station, as provided in paragraph (a), when completing only a portion of the return trip of his regular assignment?

"A-9. Yes, because there is no layover in the home station for incompleting regular service."

Under usual operating conditions, Claimant's regular assignment would have terminated at Williams Junction at 7:15 A.M. Under the peculiar circumstances prevailing on June 1 and 14 Claimant had no alternative but to release himself at 10:50 P.M. under Rule 13. Thus he did not complete, on those dates, his regular assignment. Whether this fact entitled him to be paid held-for-service time under Question and Answer 9 is the central issue before the Board.

It appears to the Board that the language employed by the parties in Question and Answer 9 is susceptible of no interpretation other than that the condition precedent to qualifying for held-for-service time is that "only a portion of the return trip" be completed. Put another way, the rule requires a factual showing that the regularly-assigned conductor's return trip to his home station was not completed before he can qualify for held-for-service time under an application of Question and Answer 9 and Rule 9 (a).

In so holding, we are not unmindful of the Employees' contention that a conductor's regular assignment encompasses all the conditions specified in the Operation of Conductors Form including those pertaining to outbound and inbound trips; that, therefore, the premature termination of his assignment can properly be equated with incompleteness of his trip. If that contention were tenable, and it is not, then the phrase "of the return trip" in Question 9 would obviously be mere surplusage. We are not persuaded that the parties intended to include in their agreement words without meaning or effect. Giving the quoted words their ordinary and usual meaning, it follows that the language used by the parties draws a clear distinction between a "trip" and an "assignment". Therefore, it cannot reasonably or logically be inferred that the parties intended to use them synonymously, as is urged by the Employees.

The facts establish that Claimant's return trip to his home station was completed. That he was released from duty prior to his regular relieving time at his home station and that he had no duties of his regular assignment to perform from and after 10:05 P.M. on June 1 and 14, 1964, is neither relevant nor material under Question and Answer 9 to Rule 9. To avail himself of the remedy and compensation thereby provided, a regularly-assigned conductor must establish that his return trip was not completed. Failure to do so is fatal to a claim progressed thereunder.

In view of the foregoing, the Board finds this claim is not supported by the rules relied upon. It will, therefore, be denied.

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. Schultz
Executive Secretary

Dated at Chicago, Illinois, this 5th day of November, 1965.