



Award Number 17763

Docket Number DC-18156

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Don Gladden, Referee

PARTIES TO DISPUTE:

JOINT COUNCIL DINING CAR EMPLOYES LOCAL 351

**THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY—DINING & SLEEPING CAR SERVICE—**

STATEMENT OF CLAIM: Claim of Joint Council Dining Car Employees Union, Local 351 on the property of the Atchison, Topeka and Santa Fe Railway Company, for and on behalf of the classification of employees designated as "Barmen", that carrier be required to assign these employees to its Dome Cars on Trains 15-16, instead of Lounge Car Attendants, it being the position of the Organization that Barmen should be so assigned because of Agreement and practice.

EMPLOYEES' STATEMENT OF FACTS: This dispute arose on the property via the following letter from Organization's General Chairman and Local President:

"May 28, 1968

"Mr. John R. Baird
Superintendent
Dining Car & News Department
AT&SF Railway Company
2014 South Wentworth Avenue
Chicago, Illinois 60616

**Protesting Assignment of Lounge Car Attendants to Sky
Level Dome Cars—Train 15-16**

"Dear Sir:

This constitutes our protest respecting improper application and interpretation of the working Agreement between your Company and this Organization as to assignment on Sky Level Lounge Cars recently attached to Trains 15-16, operating between Chicago and Houston. We are unable to follow your Company's intentions, this because of your arbitrary changes wherein both hot and cold decisions have been applied respecting the proper class of employees to be assigned on Sky Level Lounge Cars in this instance.

As a matter of fact, this subject was first introduced by you in a telephone conversation between our Mr. H. L. Stevenson and yourself, May 9, 1968 in which you stated: Quote—

'We are transferring Sky Level Lounge Cars from Trains 19-20 to Trains 15-16. It's my interpretation of the agreement Barmen are to be assigned to the operation. Do you agree?' Unquote

As a matter of information, I am attaching herewith reproduction of the advertisement announcing our placing dome lounges on Train 15-16 which appeared in Chicago's American, Tuesday, June 4. Please note that the car shown is a dome lounge car and not a sky level lounge car.

For the reasons cited hereinabove and inasmuch as Train 15-16 does not come under the purview of Memorandum of Agreement No. 18, your protest is completely without support of Agreement rules; therefore, I do not agree that the Carrier has made improper application and/or interpretation of the working agreement between your Organization and this Carrier.

Very truly yours,

/s/ JOHN R. BAIRD
John R. Baird
Superintendent
Dining Car & News Department"

Attached to Mr. Baird's letter of June 21, 1968 was documented evidence in support of statement contained in paragraph two of Mr. Baird's letter found on page 10 hereof and such evidence is attached hereto as Exhibit "F". Also attached hereto as Exhibit "G" is reproduction of Mr. Baird's letter of June 21, 1968, page 12 hereof, which was submitted in proof that the dome lounge cars placed on Train 15-16 were not sky level lounge cars referred to in Memorandum of Agreement No. 18 dated June 21, 1956.

Following receipt of Superintendent Baird's letter of June 21, 1968 wherein he notified the Organization that their protest was completely without support of Agreement rules, the Organization appealed Superintendent Baird's decision to the Carrier's next highest officer of appeal, Vice President-General Manager Mr. G. J. Roche. Their letter of July 1, 1968 is attached hereto as Exhibit "H".

Mr. Roche sustained Mr. Baird's decision and conveyed such information to the Petitioning Employees' Mr. W. S. Seltzer on July 17, 1968 (Exhibit "I").

The Petitioning Employees' Mr. W. S. Seltzer notified Mr. Roche on August 5, 1968 of their intention to advance the case to the National Railroad Adjustment Board for adjudication. (Exhibit "J")

Mr. Roche acknowledged Mr. Seltzer's letter of August 5 on August 7, 1968. (Exhibit "K")

(Exhibits Not Reproduced)

OPINION OF BOARD: This claim arises out of the Carrier assigning "lounge car attendants" to positions claimed by the Organization to be "bar-men" positions under the Agreement and past practice. The Organization relies upon a memorandum of Agreement as the basis for their position but the Agreement shows on its fact that it is applicable only to certain trains none of which are the subject of this claim.

While the Organization alleges that the Carrier is bound by past practice, there is no evidence in the record to support this allegation.

It is well established that this Board has no authority to make any change by adding to or deleting from the provisions of the rules agreed upon

by the parties, and in view of the failure to establish past practice we must therefore deny the claim.

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 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 the Agreement was not violated.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of March 1970.