

Award No. 1917

Docket No. 1819

2-B&M-CM-'55

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 18, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

BOSTON AND MAINE RAILROAD

DISPUTE: CLAIM OF EMPLOYEES: 1. That under the current Agreement it was improper to substitute employes other than Carmen, together with a Link Belt Crane to rerail WFEX 73152 at Lawrence, Massachusetts on March 15, 1954.

2. That the Carrier be ordered to compensate Carmen-wrecking crew J. J. Melanson, H. J. Nelson, W. Mullen, P. Martucci, F. Dwelley, H. Marcoux and A. R. Turpinat each in the amount of seven (7) hours and fifteen (15) minutes at the time and one-half rate on account of not being used to rerail WFEX 73152.

EMPLOYEES' STATEMENT OF FACTS: During the night of March 14, 1954, WFEX 73152 was derailed at Lawrence, Massachusetts, one end of the car off truck and on the ground, the other end off the track. On March 15, 1954, at 8:00 A. M., Foreman Cobern, Carmen B. Smally, H. Goscinak, Link Belt Crane Operator A. Olette, Track Foreman E. Buschard and four (4) of his crew rerailed WFEX 73152.

The link belt crane was used to lift the car back on the rails, which statement is supported by Chief of Personnel John W. Brackett in his letter of July 16, 1954 directed to the undersigned, copy of which is submitted herewith and identified as Exhibit A.

Carmen, regular assigned members of the Boston wreck crew, J. J. Melanson, H. J. Nelson, W. Mullen, F. Dwelley, P. Martucci, H. Marcoux and A. R. Turpinat (hereinafter referred to as the claimants) were ready, willing and available to perform this service, if called to do so.

The dispute was handled with carrier officials designated to handle such affairs, who all declined to adjust the matter.

The agreement effective April 1, 1937, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: We contend that Lawrence comes within the jurisdiction of the Boston wrecker as this wrecker has been used in the past involving wrecks or derailments on the Portland Division.

Rule 112 reads in part:

Furthermore, Second Division Award 1482, page 5, rules that when the carmen's classification of work rule does not include wrecking service within its scope, it must be ruled that wrecks or derailments are not exclusively work of the carmen's agreement.

Lawrence, Massachusetts, the location of this derailment, is within yard limits. Sufficient carmen in Lawrence Yard were used.

The facts are that a wrecker outfit was not required to rerail this one empty car and if the crane had not been there in Lawrence Yard to take the lift, the car would still have been rerailed by the Lawrence carmen with jacks by jacking the truck and car back on the rails; car was not tipped over. As it was, the Lawrence, Mass. carmen made the necessary hitches for the lifting operation by the crane.

Respectfully request the denial of this type of claim.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

The evidence of record discloses that in violation of the controlling agreement other than carmen were used to assist in rerailing WFEX 73152. Without prejudice to other or future claims compensation is disallowed in the instant case.

AWARD

Claim sustained in accordance with findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 20th day of April, 1955.