



Award No. 4786
Docket No. 4637
2-KCS-CM-'65

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 3, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

THE KANSAS CITY SOUTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the current agreement was violated when a sufficient number of the crew regularly assigned to the Port Arthur, Texas' wrecker was not called to accompany the outfit when it was sent to Benson, Converse and Leesville, Louisiana and used in wrecking service at these points on November 19, 20, 21, 23 and 24, 1962, inclusive.

2. That accordingly, the Carrier be ordered to additionally compensate wrecking crew members Owen Copeland 11½ hours on the 19th, 12 hours on the 20th, 12½ hours on the 21st, 3½ hours on the 23rd and 3½ hours on the 24th of November 1962; E. E. George and V. J. Borne 11½ hours on the 19th, 3½ hours on the 20th, 3½ hours on the 21st, 3½ hours on the 23rd and 8½ hours on the 24th of November 1962, each at time and one-half rate on the above dates.

EMPLOYEES' STATEMENT OF FACTS: At Port Arthur, Texas the Kansas City Southern Railway Company, hereinafter referred to as the carrier, maintains a complete wrecking outfit and a crew of carmen regularly assigned thereto, among whom are Owen Copeland, E. E. George and V. J. Borne, hereinafter referred to as the claimants.

On November 19, 1962, the Port Arthur wrecking outfit accompanied by the regularly assigned engineer was dispatched to Benson, Louisiana and used to perform wrecking service at that location, also at Converse, Louisiana and Leesville, Louisiana. In the work performance at Benson, Louisiana and Converse, Louisiana carmen employed at Shreveport, Louisiana, together with monthly assigned truckmen carmen employed at Shreveport, Louisiana were used to perform the ground work in connection with the Port Arthur wrecker on November 19, 20 and 21, 1962. In the work performance at Leesville, Louisiana, carmen employed at Shreveport, Louisiana, together with

Organization is attempting to revise the clear wording and intent of Rule 96 by persuading this board to render a decision in its favor. Such is not within the jurisdiction of this Board, and under the circumstances the claim should be denied.

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.

Parties to said dispute were given due notice of hearing thereon.

Only the Port Arthur derrick and operator were sent to assist the Shreveport derrick and wrecking crew to load wrecked cars on flat cars at Benson and then at Converse. Enroute home without the operator, the Port Arthur derrick was used by three Shreveport carmen and one Leesville carman to load three derailed cars at Leesville.

In Award No. 857 this Division, without a referee, held that similar circumstances constituted the calling of a wrecking crew and thus violated a rule which, except that it was limited to wrecks and derailments outside of yard limits, was identical with the provision of Rule 96 (c) that

“when wrecking crews are called for wrecks and derailments, a sufficient number of the regularly assigned crew will accompany the outfit.”

This Division's holding in Award No. 857 has been followed consistently in its Awards Nos. 1702, 2185, 2404, 3365, 4280 and 4675, which seem sound and should be followed. Each of the claimants should be paid the difference between what he earned on November 19, 20, 21 and 23, 1962, and what he would have earned on those days had he accompanied the outfit, provided it does not exceed for any day the amount claimed by him. The record indicates that the outfit was not used on November 24.

AWARD

Claim 1 sustained.

Claim 2 sustained to the extent indicated in the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 15th day of October, 1965.

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