



Award No. 4934

Docket No. 4806

2-NYC-CM-'66

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Donald F. McMahon when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 103, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

THE NEW YORK CENTRAL RAILROAD (Western District)

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the Controlling Agreement, particularly Rule 31 and Carmens' Special Rules 157 and 158 when, the Carrier contracted the services of the Indiana Harbor Belt Railroad Crane and Crew to perform wrecking service on the New York Central Railroad properties, which was formerly performed by the New York Central Wreck Crane and Crew at Englewood, Chicago, Illinois.

2. Therefore the Englewood, Illinois carmen who were members of the Wreck Crane Crew shall be paid as enumerated below for the amount of hours specified in each violation.

3. The New York Central Railroad shall cease to contract wrecking service in the future.

(Englewood Wrecking Crane Crew Members)

George Schanlub	Engineer	Carman
Anton Jankowski	Cook	Carman
Pete Wagner	Groundman	Carman
Frank Kaminski	Groundman	Carman
Chanel Bazin	Groundman	Carman
Andrew Pitluck	Groundman	Carman
Nelms Williams	Groundman	Carman

Wrecking Service Claimed.

September 26, 1962, 4 hours premium time each member of the New York Central Englewood Crane account the Indiana Harbor Belt Railroad Crane and crew used to re-rail N.Y.C. 75409 Car at the New York Central, Indiana Harbor Train Yard.

October 1, 1962, 1 hour preparatory time and 12 hours premium time, account Indiana Harbor Belt Railroad Crane and Crew used to re-rail N.Y.C. 499071 on the N.Y.C. R.R. Main Line at Pine, Indiana.

November 18, 1962, 1 hour preparatory straight time and 4½ hours premium time each member of the Englewood, New York Central Wreck Crane Crew account the Indiana Harbor Belt Railroad Wreck Crane and Crew used to re-rail REX 7569 Car at the New York Central Railroad, Englewood Engine House Lead Track.

November 22, 1962, 1 hour preparatory straight time and 3½ hours premium time each member of the Englewood, New York Central Wreck Crane Crew, account the Indiana Harbor Belt Railroad Wreck Crane and Crew used to re-rail N.Y.C. 8278 Car at the Englewood, New York Central Enginehouse.

EMPLOYEES' STATEMENT OF FACTS: The New York Central Railroad Company, hereinafter referred to as the carrier, maintained a steam wreck crane and wreck crew at its Englewood, Illinois, Car Repair Track for approximately thirty years previous to September 17, 1962.

The engineer and crew of the wreck crane were regularly assigned by bid to these positions in addition to their positions as carmen on the Englewood Repair Track.

On September 17, 1962 the following bulletin was posted at the Englewood Repair Track and Seniority point.

"Equipment Department

At the close of the work day, Friday, September 21, 1962 all jobs on the Englewood Repair Track and Cleaning Track along with the position of Steam Crane Engineer, will be abolished.

Effective close of the work day September 21st, the steam crane outfit will no longer be in service at Englewood.

H. M. Volpe
General Foreman"

The crew of the Englewood Wreck Crane consisted of, 1 engineer, 1 cook and 5 groundmen, (carmen).

On September 26, 1962 the carrier contracted the service of the Indiana Harbor Belt Railroad crane and crew to perform wrecking service on its railroad in the territory that the Englewood wreck crane and crew serviced.

There is an agreement effective July 16, 1946, as subsequently amended on the New York Central Railroad between System Federation No. 103 of the Railway Employees' Department, AFL-CIO, of which the Carmen are a part and the Carrier which is here controlling.

There is a separate controlling agreement on the Indiana Harbor Belt Railroad. The Indiana Harbor Belt railroad employees do not have any seniority rights or agreement rights on the New York Central Railroad.

The New York Central Railroad is continuing the contracting of wrecking service in violation of the controlling agreement.

Award 3970). Exception is also taken to the amount of time claimed inasmuch as the claimants were regularly employed at Englewood and the first shift tour of duty began at 7:00 A. M.

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.

Claims are processed here by the Organization on behalf of seven (7) employes for an alleged violation of Rules #157, 158 and 31 of the current Agreement, when Carrier used the services of the Indiana Harbor Belt Crane and Crew at Englewood, Chicago, Illinois on dates of September 26, 1962, to rerail an N.Y.C. car at Indiana Harbor Train Yard, where claim is made for four hours premium time for all claimants.

On October 1, 1962, claim is made for 1 hour preparatory time and 12 hours premium time when the Indiana Harbor Belt Crane and crew were used by Carrier to rerail an N.Y.C. car at Pine Indiana, Main Line N.Y.C.

On November 18, 1962, claim is made for 1 hour preparatory time and 4½ hours, consumed in rerailling car involving 4½ hours at premium time at Englewood Engine House Lead Track, when Carrier used Indiana Harbor Belt Crane and crew to rerail a car.

On November 22, 1962, Carrier authorized Indiana Harbor Belt Crane and Crew to rerail a car at Englewood, N.Y.C. Enginehouse. Claim is made for 1 hour preparatory time and 3½ hours' premium rate for named employes.

All claims by the Organization are made on behalf of members of the Crew formerly headquartered at Englewood by Carrier.

The Organization contends that when Carrier permitted the Wrecking Crane and Crew of Indiana Harbor Belt Railroad to do the work, the Carrier violated the Agreement with the Organization here, and that named claimants here should be compensated as alleged, and further that employes of Indiana Harbor Belt R.R. held no seniority or Agreement rights on the Carrier's property herein named.

Carrier contends that on the claim dates here, no Wrecking Crane and Crew assignment existed at Englewood. That on September 21, 1962, the assignment of positions as here involved, along with the position of Steam Crane Engineer, were abolished by Carrier and the Steam Crane was no longer in service at Englewood after September 21, 1962. Carrier further states that after the abolishment of the Wrecking Crane and crew assignment, the former crew members all regularly assigned Carmen, continued to perform their work as Carmen, at Englewood.

The Carrier in its judgment saw fit to abolish the Wrecking Crane and Crew assignment at Englewood. The employees at the location all retained their regular assignments as Carmen at Englewood.

From the Rules relied on by the Organization as being violated by the Carrier, we can find nothing in record to support such contention. Rule No. 31, Seniority Rule, has no provision requiring Carrier to operate a Wrecking Crane and Crew assignment at Englewood, or at any specific point on its system. Rule No. 157 covers the consist of Wrecking Crew as provided. This rule has no application here for the reason no Wrecking Crew assignment at Englewood existed, on claim dates. Rule No. 158, provides when wrecking crews are called for wrecks or derailments a sufficient number of the crew will be called, for work inside or outside yard limits. This likewise has no relation to the claims here, since the Wrecking Crane and Crew assignments had been abolished by Carrier at a date prior to the date of claims before us.

The claims are without merit and should be denied.

AWARD

Claims denied per Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 27th day of July 1966.