

Award No. 5679
Docket No. 5578
2-PC(NYNH&H)-CM-'69

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Gene T. Ritter when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 17, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO (Carmen)

PENN CENTRAL COMPANY
(Formerly New York, New Haven & Hartford Railroad Co.)

DISPUTE: CLAIM OF EMPLOYES:

1. That the New Haven Railroad, hereinafter referred to as the Carrier, improperly compensated regularly assigned members of the New Haven, Connecticut wrecking crew for wrecking service performed on Wednesday, May 12, 1965.

2. That accordingly the Carrier is requested to additionally compensate each of the following named members of the wrecking crew, hereinafter referred to as the claimants, the amounts shown below, less what they have been paid for this service:

J. McGovern	7 A. M.-3 P. M.	Sun. & Sat.	Rest Days
E. Orteneau	7 A. M.-3 P. M.	Sun. & Sat.	Rest Days
D. Fitzgerald	7 A. M.-3 P. M.	Sun. & Sat.	Rest Days
J. Prete	7 A. M.-3 P. M.	Sun. & Sat.	Rest Days
H. Albanese	7 A. M.-3 P. M.	Sun. & Sat.	Rest Days
K. Sennett	7 A. M.-3 P. M.	Fri. & Sat.	Rest Days

The claim is for eight (8) hours at time and one-half and eight (8) hours and fifty (50) minutes at double time.

EMPLOYEES' STATEMENT OF FACTS: The Claimants worked their regular assignments on May 11, 1965, starting at 7 A. M. to 3 P. M.

On Wednesday, May 12, 1965 the Claimants, regularly assigned members of the New Haven wreck crew, were called at 5:30 A. M. to report to the tool train at 7 A. M. for wrecking duty in the LCL yard at Cedar Hill. The Claimants were paid eight (8) hours' straight time, eight (8) hours at time and one-half, and either .5 or .8 at double time.

manner that they do on any other work day. The only difference here is that when they reported at their regular reporting time, they did so at the track where the wreck train is stored, rather than at the location of their regular assignments.

We respectfully request the Board to find that this claim is without merit, and that a denial decision is required.

(Exhibits not reproduced.)

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 waived right of appearance at hearing thereon.

Each of the Claimants worked his regular assignment on Tuesday, May 11, 1965 from 7:00 A.M. to 3:00 P.M. On Wednesday, May 12, 1965, these Claimants received a telephone call at 5:30 A.M. at their home directing them to report for wrecking duty at the LCL Yard at Cedar Hill, a distance of approximately 3 miles from the location where they normally report to work. Claimants contend that under the terms of Rule 8 of the current Agreement, they are entitled to 8 hours at time and one-half and 8 hours and 50 minutes at double time. They were paid 8 hours straight time and 8 hours at time and one-half and either .5 or .8 hours of double time. Rule 8 is:

"Wrecking service employes called outside of regular working hours will have their time computed starting twenty minutes ahead of the time at which they actually report.

All service performed in excess of sixteen (16) hours will be paid for at double time."

Therefore, the question in this issue is, "Does the fact that these Claimants were called on the telephone and told to report at a different location but at their regular starting time, entitle them to the time and one-half rate for their 8 hours regular working time and double time for over 8 hours?" In answering this question, this Board must determine whether or not this telephone call at their home constituted a "call" as contemplated in the above set out Rule 8.

This Board is of the opinion that in order to constitute a compensable "call", an employe must report to duty and be on duty outside of normal working hours. This Board finds that "Wrecking Service employes called outside of regular working hours", as set out in Rule 8, contemplates employes who are called for wrecking service which is to be performed outside of their regular assigned hours. The purpose of the 20 minute allowance is held by this Board to be an allowance granted the employes in preparing for and getting to the wrecked train during what would otherwise be their free time.

In order to qualify for the time and one-half and double time as claimed in this dispute, there must necessarily be a message transmitted from the proper authority of the Carrier to the employe; and the message must direct the employe to report for duty outside of his regularly assigned hours. This Board fails to find that the Claimants in this case were inconvenienced in any way. Therefore, this Board finds that they were compensated correctly and that their claim is without merit.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **SECOND DIVISION**

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of April, 1969.