



Award No. 5810

Docket No. 5682

2-C&EI-CM '69

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Arthur Stark when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 20, RAILWAY EMPLOYES'
DEPARTMENT, AFL — CIO
(Carmen)**

CHICAGO AND EASTERN ILLINOIS RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the Chicago and Eastern Illinois Railroad unjustly denied wreck crew members James Chance, Robert Boulden, Randall Griffin, Harold Horseley, Norris Story, Carol Story and Walter Kreuger, their right to accompany the wrecking outfit when the wrecking outfit left the yard at 5:00 A.M. September 23, 1966.
2. That accordingly, the Carrier be ordered to compensate carmen James Chance, Robert Boulden, Randall Griffin, Harold Horseley, Carol Story, Norris Story and Walter Kreuger one hour at the time and one-half rate and one hour at the straight time rate account of violation of the provisions of the controlling agreement.

EMPLOYES' STATEMENT OF FACTS: The Chicago and Eastern Illinois Railroad, hereinafter referred to as the carrier, employs carman Chance, Boulden, Griffin, Horseley, N. Story, C. Story and W. Kreuger, hereinafter referred to as the claimants at Yard Center, Illinois, as members of the wreck crew.

On September 22, 1966, C&EI 5019 was pushed off the end of a track at the Ford Yard of the Chicago Heights Terminal Transfer Company, hereinafter referred to as CHTT, in Chicago Heights, Illinois, requiring the use of the wreck outfit. The wreck outfit left the Yard Center at 5:00 A.M., on September 23, 1966, but the wreck crew members were not allowed to accompany the outfit, as provided for in Rule 101 of the current working agreement. The wreck crew members were sent to the scene of the wreck by truck after they reported for work at the repair track at 6:00 A.M., instead of accompanying the wrecking outfit, thereby losing one hour at the time and one-half rate and one hour at the straight time rate.

This dispute has been handled in accordance with the agreement, with all officers of the carrier designed to handle disputes, including the highest officer, all of whom have declined to adjust it.

There is no dispute to the fact that the derailment occurred on the Chicago Heights Terminal Transfer Railroad and in view of the preponderant weight of precedent established in the above cited awards it is easily apparent that the claimants had no contractual right to the work in question or to accompany the derrick.

For the reasons set forth above, the instant claim is based upon a false premise, is void of rule support and, therefore, the carrier respectfully requests the claims of the employees 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 employee or employees involved in this dispute are respectively carrier and employee 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.

On September 22, 1966 a box car was derailed at the end of a track at the Ford Yard of the CHTT (Chicago Heights Terminal Transfer Railroad Company) at Chicago Heights, Illinois. CHTT requested Carrier to send its steam derrick on September 23, to reraill the box car and Carrier's Trainmaster authorized movement of the derrick on the 5 A.M. transfer run. At 6 P.M. on September 23, after they reported for work, the seven Claimants, all wreck crew members, were sent by truck to the derailment. They worked there until 10:30 A.M. and then returned to their regular jobs at Carrier's Yard Center.

Petitioner contends that, under Rule 101, Claimants should have accompanied the wrecking outfit at 5 A.M. This Rule provides in part that "When wrecking crews are called for wrecks or derailments outside of yard limits, a sufficient number of the regularly assigned crew will accompany the outfit." Carrier, on the other hand, affirms that: (1) Its employees had no contractual right to work on the CHTT Railroad, a "Foreign" carrier; (2) Rule 101 does not control unless the wrecking crew is used on Carrier's property; (3) In any event, the derailment occurred within yard limits so that the cited part of Rule 101 did not apply.

* * *

In a line of decisions involving this Organization and various carriers, the Board has consistently held that the wrecking crew rule (Rule 101 here) applies to wrecks and derailments on carrier's property but does not apply when the wrecker is loaned to another carrier for rerailling work on its property. The circumstances in the case at hand are similar to those in the cases where claims have been denied, including Second Division Awards 2213 (1956), 2992 (1958), 3768 (1961), 4212 (1962) and 4570 (1964). There are no cited Awards to the contrary. Accordingly, the instant claim must be denied.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 20th day of November, 1969.