

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

Parties to Dispute: { Brotherhood Railway Carmen of the United States
and Canada
{ Seaboard Coast Line Railroad Company

Dispute: Claim of Employees:

- (1) That the Seaboard Coast Line Railroad Company violated terms of the controlling agreement when on March 30, 1977, they used other than carmen to rerail diesel engine S.C.L. 1564 in the vicinity of the Engine House at Waycross, Georgia.
- (2) That accordingly the Seaboard Coast Line Railroad Company be ordered to compensate Carmen W. J. Steedly and C. L. Thornton, for two (2) hours and forty-five (45) minutes each at overtime rate due to their being available and first out for this work and not being used.

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.

On March 30, 1977 diesel unit 1564 derailed in the engine house area at Waycross, Georgia. Engine house laborers were used to place timbers for rerailing the unit. The work was accomplished in the two hours and forty five minutes outlined in the complaint. The claimants were first up as carmen and available to perform the work. The organization avers that the carrier violated rules in the agreement by assignment of work to engine house laborers which belonged to carmen under that agreement. The gravamen of its position resides in rule 103(c):

"Within yard limits, when the wrecker is used, the necessary number of members of the wrecking crew will be called to perform the work. For wrecks or derailments within yard limits sufficient carmen will be called to perform the work."

It is conceded that the derailment was within yard limits. The organization points out that the language is clear and unambiguous that carmen are required.

The carrier argues that Second Division Award 4337, for example, points out that the second sentence is taken out of context by the organization and must be read in context to establish its true meaning. In that decision rule 142 of a different contract was interpreted. There is significant difference in the wording of the rule. Rule 142 reads:

"When wrecking crews are called for wrecks or derailments outside of yard limits a sufficient number of regularly assigned crew will accompany the outfit. For wrecks or derailments within yard limits, sufficient carmen will be called to perform the work."

The award determined that the two sentences supplemented each other and pointed out that "the first sentence relates to wrecks or derailments outside yard limits and the second sentence to wrecks within yard limits". It concluded that the entire rule 142 related to the use of wrecking crews only and did not apply under different circumstances. If the same line of reasoning is applied to Rule 103(c) as it is written the first sentence of the rule which applies to within not without yard limits establishes what happens when a wrecking crew is used within yard limits and the second sentence describes requirements when a wrecking crew is not used. The carrier cannot rely on the interpretation of a rule with such a significant difference in support of its position.

The organization cites Second Division Award 7607 which interpreted the specific rule in question. That award dealt with a similar dispute on the same property involving the same parties as the issue before this Board.

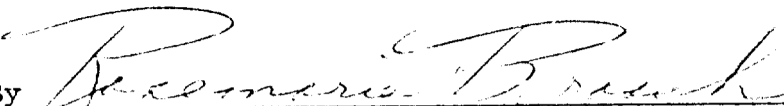
In view of the foregoing and the entire record we are unable to find sufficient reason to differ from the Board's conclusion in Award 7607. We refer to that award for additional award references.

A W A R D

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 28th day of January, 1981.