

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen of the United States
(and Canada
(
(Missouri Pacific Railroad Company

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Missouri Pacific Railroad Company violated Article VII of the Agreement of January 12, 1976, on June 23, 1980 at Bald Knob, Arkansas when they used outside equipment and employees with two Carmen from Newport, Arkansas at a derailment.
2. That the Missouri Pacific Railroad Company be ordered to compensate wrecker crew members, Carmen M. H. McGary, P. A. Piechocki, B. G. Pruitt, J. D. Cantrell, H. Phillips and H. E. Ison in the amount of four (4) hours each at the pro rata rate for this violation.

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 employees 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.

At 7:00 a.m. on June 23, 1980, the Carrier called an outside contractor and two carmen from Newport, Arkansas to perform wrecking service at Bald Knob, Arkansas. The outside forces operated equipment and the two carmen, who were part of an emergency road service crew, performed ground work. The two carmen finished their work and tied up at Newport at approximately 4:00 p.m.

The six Claimants are members of the regular assigned wrecking crew stationed at North Little Rock, Arkansas. On June 23, 1980, they performed their usual carmen duties during their regularly assigned day shift. At 3:45 p.m., the crew (less Claimant Cantrell who did not respond to the call) was called to perform wrecking service at Dumas, Arkansas. The five Claimants, in addition to receiving eight hours of straight time wages, earned 15.3 hours of overtime pay for rerailing the Dumas wreck. Contending that they should have been called to perform wrecking service at Bald Knob, each Claimant seeks four hours of pay at the pro rata rate.

The Organization asserts that the Carrier used outside forces and other employees not assigned to wrecking service to perform work exclusively reserved to Claimants. According to the Organization, the Carrier is obligated to call a sufficient member of carmen, who are members of the assigned wrecking crew, to perform ground work at the derailment site whenever the Carrier calls an outside contractor. The Organization relies on Article VII, Section 1 of the January 12, 1976 Agreement. The Carrier contends that the entire wrecking crew need not be called unless the outside contractor's ground forces were utilized. The Carrier also submits that it was proper to call the nearest emergency road service crew to assist the outside contractor since Claimants were on duty and being paid at the time the rerailling work was accomplished.

The pertinent portion of Article VII, Section 1 of the January 12, 1976 Agreement states that when the Carrier calls an outside contractor to perform wrecking service, "... a sufficient number of the Carrier's assigned wrecking crew, if reasonably accessible to the wreck, will be called ... to work with the contractor." The two carmen who were called to Bald Knob were not assigned to wrecking service. There is no rule or practice which permits the Carrier to assign employees other than the wrecking crew members to perform wrecking service. In this case, the Carrier was required to call a sufficient number of carmen who were duly assigned to wrecking service when it called the outside contractor. The record reveals that the wrecking crew at North Little Rock was reasonably accessible to the derailment. They were also available since the Carrier would have assigned the wrecking crew to wrecking service in lieu of their normal duties.

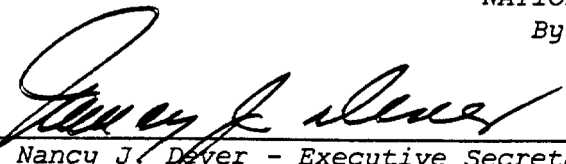
From the evidence in the record, two members of the assigned wrecking crew constituted a sufficient number within the meaning of Article VII. Thus, two of the Claimants are entitled to four hours of pay at the straight time rate. We remand this case back to the property for the parties to determine which two Claimants should be paid.

A W A R D

Claim sustained to the extent consistent with our Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 14th day of December, 1983