

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

Parties to Dispute: (Brotherhood Railway Carmen of the United States and Canada
(The Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

- 1.(a) That the Louisville and Nashville Railroad Company, violated the terms of the Agreement when the Louisville, Kentucky Wrecking Crew Members I. L. Schanie, H. R. Byrley, J. E. Thomas and J. H. Woehler were relieved of their wrecking assignment by being "taxi cabed" from the Wrecking Outfit at Mt. Vernon, Kentucky to Louisville Terminal, and the remainder of the Wrecking Crew, Carmen V. Stanley and G. D. Schwartz accompanied the Wrecking Outfit, to Louisville arriving and was relieved at 7:00 PM, February 6, 1980, and
- (b) Accordingly, the Carrier be ordered to additionally compensate the Wrecking Crew Members J. H. Woehler, I. L. Schanie, H. R. Byrley and J. E. Thomas the same compensation received by Wrecking Crew Members V. Stanley and G. D. Schwartz or four (4) hours each at the time and one-half rate of pay.
- 2.(a) Also, that the Louisville and Nashville Railroad Company violated the terms of the Agreement when Louisville, Kentucky Wrecking Crew Members D. K. Garner and M. W. Faulkner were relieved of their wrecking assignment by being "taxi cabed" from Mile Post 101 near Decoursey, Kentucky, to home station Louisville, Kentucky, where they were relieved at 7:00 PM, February 9, 1980, and the remainder of the Louisville Wrecking Crew Members Carmen V. Stanley, G. D. Schwartz and J. R. Thomas accompanied the Wrecking Outfit arriving at home station Louisville, Kentucky at 6:00 AM, February 10, 1980, and
- (b) Accordingly, the Louisville and Nashville Railroad Company should be ordered to compensate Wrecking Crew Members R. J. Jacobi and D. K. Garner eleven (11) hours each at the time and one-half rate of pay, and four (4) hours at the time and one-half rate of pay in favor Wrecking Crew Member M. W. Faulkner.

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 employes 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.

On February 5, 1980 the Carrier's six-man wrecking crew headquartered at Louisville, Kentucky, was dispatched with the wrecking outfit to Mt. Vernon, Kentucky, to clear a derailment. Work was completed on February 6, 1980 such that four (4) members of the crew -- the claimants in Issue (1) in this case (Woehler, Schanie, Byrley and Thomas) -- were directed to return to Louisville by taxicab; they arrived at their home location and were relieved at 3:00 a.m. on that date. Two other wrecking crew members were ordered to accompany the wrecking outfit on its trip back to Louisville; they and the outfit arrived at 7:00 a.m. on February 6, 1980. The Claim herein involves a demand for compensation for the four (4) hours that Claimants were not with the wrecking outfit on its return, and since such travel preceded their regular (first) shift hours, the demand is made at time and one-half.

Issue (2) involved a derailment near Covington, Kentucky, on February 9, 1980. The Louisville wrecking outfit was called at 2:30 a.m. on February 9, 1980 -- a Saturday -- and sent to the site with a six-man wrecking crew, somewhat different in makeup than in Issue 1. The wrecking outfit with the crew on board departed Louisville at 4:05 a.m., arriving at the wreck site at 11:15 a.m. The crew completed work at 2:00 p.m. and three (3) members of the crew -- Jacobi, Garner and Faulkner, who had been called from the "overtime board," were returned to Louisville by taxi, arriving there at 7:00 p.m. on February 9, 1980. The regular crew members (Stanley, Schwartz and Thomas) accompanied the wrecking outfit back to Louisville; they arrived at 6:00 a.m. on February 10, 1980. Claims for the eleven (11) hours difference between the arrival of the Claimants at 7:00 p.m. on February 9, 1980 and the wrecking outfit at 6:00 a.m. on February 10, 1980 were filed by two (2) of the Claimants (Jacobi and Garner) found in Issue (2) herein; Claimant Faulkner lodged a claim for four (4) hours. Both such sets of claims were at time and one-half on the grounds that the travel occurred outside the Claimant's regular tours of duty.

It is undisputed that Rule 108 is applicable to these claims:

Rule 108 Wrecking Service - Use of Regular Crew
(In Pertinent Part)

"For wrecks or derailments outside of yard limits,
the regular assigned crew will accompany the
wrecking outfit."

What is at dispute here is the intent of Rule 108. The Organization contends it establishes a requirement that the wrecking crew remain with the equipment; the Carrier concedes that Rule 108 anticipates the crew will be with the outfit on the way to a derailment, presumably to ensure that both equipment and personnel be on-site at the same time. The Carrier disputes any application of such Rule that requires employes to return with the wrecking outfit. The Carrier contends such time is non-productive and inappropriate for a demand of compensation; it cites prior interpretations and Awards to buttress its position that such return trips are unnecessary and asserts that had the parties intended such application, the Rule would have been so constructed.

This is a well-traveled dispute. Rules controlling this aspect of the relationship between certain other carriers and this organization vary somewhat and are given to varying interpretations much the same as this specific language has. We find nothing ambiguous about Rule 108: it states that the regular assigned crew will accompany the wrecking outfit to wrecks outside yard limits. Certain Boards have construed Rule 108 to be limited to the outbound trip; essentially, they have found the term "accompany" to be applicable in only one direction. We find no such language, either explicit or implicit. The Rule calls for the wrecking crew to accompany the wrecking outfit, which must go to a wreck site and presumably return. In essence, we find the word "accompany" unencumbered by direction; thus, we conclude that such Rule must be taken to mean what it says, i.e., the regular assigned crew will be with the wrecking outfit.

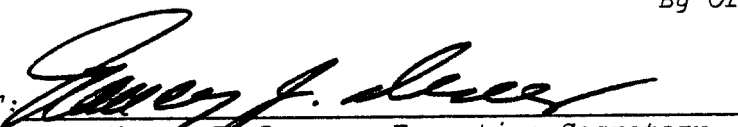
In Issue (2) before this Board, several employes who attended to the derailment and are Claimants herein were off the Overtime Board. In the same vein of reasoning that Rule 108 should be applied literally, we conclude that such Rule does not cover non-regularly-assigned employes. Arguments raised in Docket 9053 (Award 9708) address questions that may arise as to what might occur if the wrecking outfit is not returned directly to its home base. We would concur that the so-called "rule of reason" might come into play under those conditions. No such circumstance appears to have existed here and we can but conclude that Rule 108 must be interpreted strictly as written. In so concluding, we find that the Agreement was violated.

A W A R D

Claims are granted only where regular assigned members of the crew are concerned.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 4th day of January 1984.