

CORRECTED

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 11290
Docket No. 10989
2-EJ&E-CM-'87

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

(Brotherhood Railway Carmen of the United States
(and Canada
Parties to Dispute: (
(Elgin, Joliet and Eastern Railway Company

Dispute: Claim of Employees:

1. That the Elgin, Joliet and Eastern Railway Company violated Rules #50 and #72 of the current working Agreement when they used Car Inspector Carman H. Smith, whose seniority point is West Chicago, to assist Car Inspector Carman W. B. McGovern to rerail Milw. #99584 which was derailed at Leighton (sic), Illinois on January 26, 1984.

2. That the Elgin, Joliet and Eastern Railway Company be ordered to compensate Joliet Wreck Truck Driver Carman R. O. Burroughs for three (3) hours and thirty (30) minutes at the pro rata rate, plus one (1) hour of pay in lieu of the meal period he would have received had he been properly used to perform said rerailing work account of the above rule 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 employe 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.

The Carrier suffered a minor derailment at Leighton and sent a Carman from West Chicago, Illinois to assist in rerailing. This Claim concerns a Carman whose seniority point is Joliet, Illinois. The Claimant is a Wreck Truck Driver and claims he should have been called to assist.

Rule 50 (Wrecking Crews) of the Schedule Agreement governs assignments. Rule 50(a) states:

"(a) In dispatching wrecking equipment to wrecks,
the Carrier will determine whether the wrecking

outfit (derrick), mobile crane, or a combination of such equipment will be used."

The remainder of the rule concerns the rights, seniority and otherwise, of the employees when the wrecking equipment is dispatched.

Rule 50(a) only determines the rights of the employees when the wrecking equipment has been dispatched. In this case the Carrier, apparently because of the minor nature of the derailment, decided not to send wrecking equipment to the derailment. The nature of the Claim does not address any duty of the Carrier to send this equipment. Therefore, we find no violation of any of the provisions of Rule 50.

Rule 72 covers the general seniority rights of the employees. It reads:

"(a) Seniority of employees in each craft covered by this agreement shall be confined to the point employed in each of the following departments. . .

Car Department

Four sub-divisions of Carmen, as follows:

Patternmakers,

Upholsterers,

Painters

Other Carmen"

Claim falls into the category of "Other Carmen."

Past practice has been, for many years, to send Car Inspectors from nearby outlying points to perform work. The Carrier admits that the Claimant would have been called if the wreck equipment had been utilized.

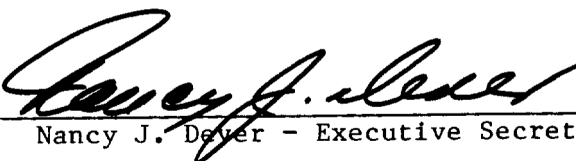
Based upon the lack of Rule support and the past practice we find no violation.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 1st day of July 1987.