

Award No. 222

Docket No. 230

2-MP-CM-'38

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 2, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. OF L. (CARMEN)**

MISSOURI PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: That a four hour call should be paid each of the following employes: R. Richards, I. H. Redding, C. C. Schatzer and R. E. Rogers, account of roundhouse employes at Monroe being called to reraill engine No. 9505 on February 8, 1937.

EMPLOYEES' STATEMENT OF FACTS: On February 8, 1937, switch engine No. 9505 was derailed in Monroe train yard about 2:40 A. M. and account of same it was necessary to retire switch crew. At 4:30 A. M., another switch engine and crew was called and as soon as they reported for duty the night roundhouse foreman with his crew of one machinist, one machinist helper and two laborers loaded switch engine with cutting torch and drums, both crews then proceeding to derailment. On arrival at derailment, night roundhouse foreman and his crew performed all preparatory work, then set the frogs and with roundhouse foreman handling the steam, engine was rerailed by his crew.

POSITION OF EMPLOYEES: Employes contend that provisions of Rule 120 of current wage agreement, hereinafter quoted, clearly set forth that carmen and their helpers will be called for wrecks or derailments within yard limits;

"Missouri Pacific current wage agreement:

Rule 120. 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. For wrecks or derailments within yard limits, sufficient carmen and helpers will be called to perform the work, if available."

and since carmen and helpers were available the morning in question, therefore, it was a violation of Rule 120, as quoted, to call roundhouse employes.

It is claimed by management, see Exhibit A, that engine was rerailed by switch crew and further, that it was not necessary to call carmen and helpers to perform this work, as yard switch crews reraill minor derailments where help is not required.

The employes contend the above statement is erroneous in its entirety; in the first place, the statement that engine was rerailed by switch crew is not in accord with signed statement made by crew, see Exhibit B, stating they absolutely performed no work in connection with rerailling engine and in the second place, it was not a minor derailment, because when the engine was

There is no basis either under our rules or past practices to support the employes' contentions, which have been 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 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.

The parties to said dispute were given due notice of hearing thereon.

The rule involved reads as follows:

"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. For wrecks or derailments within yard limits, sufficient carmen and helpers will be called to perform the work, if available."

The derailment occurred within yard limits.

Although a minor derailment, a twisted brake beam prevented the crew from replacing the pair of wheels.

The roundhouse foreman was called upon for assistance; he, together with one machinist, one machinist helper and two laborers, with necessary cutting torch and equipment, proceeded to the point of the derailment and performed the work necessary to re-track the locomotive tender.

It is the opinion of the Division that Rule 120 contemplates, even in the case of a minor derailment, that when yard forces are unable to correct the condition, and it becomes necessary to call other employes and equipment, that the work then belongs to the carmen and that sufficient carmen and their helpers shall be called to perform the work, if available.

AWARD

Claim of employes sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 16th day of February, 1938.