

**Award No. 1069**  
**Docket No. 976**  
**2-NYNH&H-CM-'45**

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
**SECOND DIVISION**

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

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 17, RAILWAY EMPLOYEES'**  
**DEPARTMENT, A. F. OF L. (CARMEN)**

**THE NEW YORK, NEW HAVEN AND HARTFORD**  
**RAILROAD COMPANY**

(Howard S. Palmer, James Lee Loomis and Henry B. Sawyer, Trustees)

**DISPUTE: CLAIM OF EMPLOYEES:** 1. That at New Haven on July 4, 1940, the carrier violated the controlling agreement and Rule 111 thereof by—

(a) The assignment of only four members of the wreck crew to remove two cars from the river at Lee, Massachusetts.

(b) The assignment of the Danbury, Connecticut, wreck crew to accompany four members of the New Haven crew to effect recovery of said cars from the river.

2. That in consideration of the aforesaid violations these remaining nine members of the New Haven wreck crew are entitled to be compensated for the same hours as four members of their crew were each paid.

**JOINT STATEMENT OF FACTS:** On July 2, 1940, a derailment of cars of Freight Extra 438 occurred north of Lee, Massachusetts. Two of the cars turned over and went down an embankment into the Housatonic River. The carrier maintains at—

(a) Danbury, Connecticut, one 75-ton derrick including a wreck outfit and a regularly assigned wreck crew.

(b) Maybrook, New York, one 150-ton derrick including a wreck outfit and a regularly assigned wreck crew.

(c) New Haven, Connecticut, one 150-ton derrick and one 75-ton derrick including a wreck outfit and a regularly assigned wreck crew composed of thirteen men.

Lee, Massachusetts, is located on the so-called Berkshire Route between Danbury, Connecticut, and Pittsfield, Massachusetts. The Danbury wrecking outfit and crew were called and used to clear the derailment, but the Danbury derrick of 75-ton capacity was not sufficient to get the two cars out of the river.

On July 4, 1940, the 150-ton Maybrook derrick with the crew was sent to Danbury, and at the same time the 75-ton derrick from New Haven, with an engineer, fireman and two carmen, was also sent to Danbury. Exchange

gether should the occasion for their services on the highly important freight route between Maybrook and Danbury develop while they were enroute. The 150-ton derrick from Maybrook, manned by the Danbury crew which had, in the meantime, returned from Lee proceeded back to Lee with the derrick engineer, fireman and two carmen from New Haven, recovered the two cars from the river, after which they returned to Danbury, and the 150-ton derrick from Maybrook with the four members of the New Haven crew came on to New Haven in order that the 150-ton derrick from Maybrook might be available for the bridge installations on the New York District starting on July 8.

The second paragraph of Rule 111 relates to the use of regularly assigned wrecking crews outside of yard limits. In this case there was a full wrecking crew at Lee on July 4, namely, the Danbury crew, supplemented by the wrecking derrick engineer, fireman and two carmen from the New Haven crew. There was no occasion or need for the entire complement of both the New Haven and Danbury crews at Lee. The claim of the employes would contemplate the full complement of both the New Haven and Danbury crews being at Lee. The literal requirements of the rule were complied within the utilization of the full Danbury crew, leaving aside any technical argument as to the recovery of the two cars from the river constituting "clearing main line wreck or derailment."

**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 question to be determined is whether or not the entire wrecking crew from New Haven should have been called to accompany the New Haven wrecking outfit. Rule 111 reads in part:

"When wrecking crews are called for wrecks or derailments outside of yard limits, the regularly assigned crew will accompany the outfit. \* \* \*"

Since this was a wreck outside the yard limits insofar as the New Haven crew was concerned, in accordance with Rule 111, the regularly assigned crew should have accompanied the outfit. There was a violation of the agreement.

#### AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: J. L. Mindling  
Secretary

Dated at Chicago, Illinois, this 15th day of May, 1945.