

Award No. 1131
Docket No. 1034
2-NYNH&H-CM-'46

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Sidney St. F. Thaxter when award was rendered.

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: The members of the wrecking crew involved in this claim should have been paid double time from May 9 at 10 P.M. until 1:45 A.M., May 11.

JOINT STATEMENT OF FACTS: 1. On May 9, 1941, a serious collision occurred at Burnside, Connecticut, between freight train BA-1 and a yard switcher.

2. There were three tool trains called, namely, Hartford tool train, stationed at East Hartford, Connecticut (75 ton capacity), the New Haven tool train stationed at New Haven, Connecticut (150 ton capacity), and the Providence tool train stationed at Providence, Rhode Island (150 ton capacity).

3. The Providence tool train was called at 8:15 A.M. on the morning of May 9 to proceed to Burnside to assist in clearing up the wreck.

4. They arrived at the scene of the wreck at 1:00 P.M., May 9, and remained at the scene of the wreck until May 11 at 1:45 A.M., when they were ordered to return to their home station.

5. They arrived at their home station, Northup Avenue repair track, Providence, Rhode Island, at 8:15 A.M., May 11.

6. The regular hours of the employees involved in this claim are from 6:00 A.M. to 2:00 P.M. at the Northup Avenue repair track, Providence, Rhode Island.

7. On May 9, 10 and 11, 1941, they worked as follows:

5/9/41	6:00 A.M.*	8:15 A.M.	Northup Avenue
	8:15 A.M.*	1:00 P.M.	Traveling to Burnside
	1:00 P.M.*	11:00 P.M.	At wreck
	11:00 P.M.*	6:00 A.M.	5/10 relieved at East Hartford
5/10/41	6:00 A.M.*	1:45 A.M.	5/11 At wreck
5/11/41	1:45 A.M.*	8:15 A.M.	5/11 Traveling

May 10

6:00 A.M.— 2:00 P.M. Straight time	6:00 A.M.— 2:00 P.M. Double time
2:00 P.M.—10:00 P.M. Time and one-half	2:00 P.M.—10:00 P.M. Double time
10:00 P.M.—1:45 A.M. 5/11 Double time	10:00 P.M.— 1:45 A.M. Double time

May 11

1:45 A.M.— 8:15 A.M. Double time	1:45 A.M.— 8:15 A.M. Time and one-half
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(Because of traveling)

The carrier holds that they have been properly paid except as to an overpayment of double time as against proper payment of time and one-half between 1:45 A.M. and 8:15 A.M., Sunday, May 11.

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 waived right of appearance at hearing thereon.

Under the provision of Rule 110 wrecking crews are to be paid for such service under Rule 8. Rule 8 contains no provision for a deduction of pay during a rest period while on such duty. We do not believe that the provision for pay at the double time rate for time "actually worked continuously beyond sixteen (16) hours," was intended to apply if there was a reasonable interruption for rest.

We therefore hold that the claimants were entitled to straight time pay on May 9, from 6 A.M. to 2 P.M., time and one-half from 2 P.M. to 10 P.M., double time from 10 P.M. to 11 P.M., and time and one-half from 11 P.M. on the ninth to 6 A.M. on May 10; on May 10 from 6 A.M. to 2 P.M. straight time, from 2 P.M. to 10 P.M. time and one-half, from 10 P.M. to 1:45 A.M. on May 11, double time, and time and one-half from 1:45 A.M. on May 11 to 8:15 A.M., the last period being from the completion of their working time at the wreck until their arrival home.

AWARD

Claim sustained as above.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 19th day of March, 1946.