

Award No. 1176

Docket No. 1097

2-NC&StL-CM-'47

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee George A. Cook when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 83, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.—CARMEN**

THE NASHVILLE, CHATTANOOGA & ST. LOUIS RAILWAY

DISPUTE: CLAIM OF EMPLOYEES: That the carrier violated the service rights of the Bruceton, Tennessee, wrecking crew under the controlling agreement, particularly Rules 125 and 126 when the G. M. & O. wrecking outfit and wrecking crew were used in wrecking service in the Jackson Yards, at Jackson, Tennessee, on September 3, 1945.

That the carrier be ordered to additionally compensate its Bruceton, Tennessee, wrecking crew carmen (E. L. Wilson, J. M. Williams, C. W. Robertson, R. M. Dodd, and J. M. Sarrett, carman helper) on the basis set forth below—

- (a) From 11 A. M. to 3:30 P. M. on September 3, 1945, at pro rata rate.
- (b) From 3:30 P. M. to 11 P. M. on September 3, 1945, seven hours and thirty minutes, at the time and one-half rate.
- (c) Less the time paid for within the aforesaid period of time.

EMPLOYEES' STATEMENT OF FACTS: On September 3, 1945, NC & StL Engine No. 601 was derailed at Jackson, Tennessee, at about 9:30 A. M., approximately 58 miles South of Bruceton, Tennessee, on a side track in the Jackson, Tennessee, train yards, due to a defective track.

The G. M. & O. wrecking outfit and wrecking crew were called and arrived at the scene of the derailment on same date, September 3, 1945, at about 3 P. M. The employes of this other railroad at about 8:30 P. M. on September 3, 1945, completed performing this wrecking service for the carrier.

The Bruceton, Tennessee, wrecking crew claimants are regularly employed on the repair track and in the train yards from 7 A. M. to 3:30 P. M., and they were available for responding to perform this wrecking service at Jackson, Tennessee, on arrival thereat on a called train as per past practice, which could have left Bruceton, Tennessee, shops at about 11 A. M., provided the past practice had been followed.

The controlling agreement is dated effective January 1, 1940.

That the practice on this railway and the practical interpretation by the parties of its agreement is in accord with the general practice everywhere, is conclusively shown by the absence over a period of many years of any claims other than those denied in the awards herein referred to.

The employes apparently overlook the fact that if their theory is sound, members of wrecking crews of this carrier would be deprived of benefits which they now enjoy when an NC&StL wrecker is loaned or rented to a connecting line to clear a wreck on some other railroad.

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 Board finds that in some instances the NC&StL wrecking crews may be borrowed by and perform work for a connecting or neighboring line. Also that the NC&StL Railway may borrow or loan wrecking outfit or derrick or crew from a connecting or neighboring line to perform wrecking service on its line. It has been the practice to so interchange equipment and crews in this class of service. It is reciprocal. In this case the Bruceton wrecking crew contends they were deprived of work that they should have performed, in the next case they may be performing work on a foreign line that the employes there might likewise claim they were entitled to do.

Under the circumstances cited in this particular case, the Board finds that the contention of the employes that all wrecking service on this carrier be performed by NC&StL crews to the exclusion of foreign equipment and crews, or that they be compensated when foreign equipment and crews are used, cannot be justified. It is not a case of using other than regular employes for the purpose of economy or for the purpose of defeating the intent of the agreement.

AWARD

Claim of employes denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 13th day of May, 1947.