

Award No. 1741
Docket No. 1659
2-LT-USWA-CIO-'54

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

PARTIES TO DISPUTE:

THE UNITED STEEL WORKERS OF AMERICA, C.I.O.

THE LAKE TERMINAL RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: The above claims are for six (6) hours pay and are made on behalf of Car Inspectors E. H. Pollock, L. E. Trautwine, Charles Parsons, and E. Jabbusch, because of Assistant Trainmaster Wallace re-railing Engine No. 1010 at 3:30 P.M. on Track No. 168 A.

EMPLOYEES' STATEMENT OF FACTS: The facts are as given above. In a letter addressed to M. A. Melia, union staff representative, dated June 12, 1953, the company wrote as follows: "Our investigation establishes the fact that Engine 1010 was rerailed by Mr. Wallace on Track No. 168 A; however, since this track is owned by National Tube Division, we do not consider that this work belonged to claimants. Claims are denied."

POSITION OF EMPLOYEES: The company is definitely in violation of Article XIII, Section 4, Rule 1 of the agreement, which reads: "Employees in the Car Department shall consist of Carmen (inspectors and repairmen) apprentices, other craftsmen, helpers and laborers, and only carmen and apprentices shall do work generally recognized as carmen's work".

The company is also in violation of Paragraph 4 (Definitions), which reads:

"Supervisor: Any individual employee of the Company engaged directly or indirectly in the capacity of supervising and directing the working forces, and who does no manual work except in emergencies or for the purpose of demonstration".

Neither of these contingencies were present in the instant case.

Finally we call to the attention of the Honorable Board four claims which were settled by the company and paid on August 31, 1953.

These claims were numbered 115-116-117-118, on account of Yardmaster Adamson re-railing Engine 1008 on Track No. 168, a National Tube Co. track.

Therefore we ask this Honorable Board to rule that the Lake Terminal Railroad Company was in violation of the agreement, and the claims as set forth herein be paid.

CARRIER'S STATEMENT OF FACTS: On March 25th Lake Terminal Locomotive No. 1010 was rerailed by Assistant Trainmaster Wallace with the assistance of a crew. There was no damage to locomotive or track.

POSITION OF CARRIER: It is the position of the carrier that the re-railing of locomotives or cars is not the exclusive work of car repair department employees. There was no wreck crew called as it was not felt necessary. That was borne out by the fact that after the placing of blocks between the switches the crew was given signal to back up and the locomotive was rerailed.

It is respectfully submitted that the claims are therefore invalid and the Board is requested to so hold.

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 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 record justifies the conclusion that, since the train and engine crew under the direction of Assistant Trainmaster Wallace was able to rerail the wheels of Engine No. 1010 without assistance, not calling the claimants was not a violation of the controlling agreement.

AWARD

Claim of employes denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 15th day of February, 1954.