

**Award No. 1760**

**Docket No. 1691**

**2-GN-CM-'54**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

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

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYES'  
DEPARTMENT, A. F. of L. (Carmen)**

**GREAT NORTHERN RAILWAY COMPANY**

**DISPUTE: CLAIM OF EMPLOYES:** 1. That on July 30, 1952, at Appleyard Wenatchee, Washington, the carrier violated the controlling agreement, particularly Rule 88 thereof, in the rerailment of Engine No. 223 with at least five roundhouse employees.

2. That for and in consideration of the aforesaid violation Carmen Paul Atkins, Garfield Jackson, Earl McKinley and Hubert Healey be compensated for a call, four hours each at the straight time rate for July 30, 1952.

**EMPLOYES' STATEMENT OF FACTS:** At the Appleyard roundhouse, Wenatchee, Washington, at about 5:40 A.M. July 30, 1952 Engine No. 223 was derailed by going too far off the turntable.

From 5:40 A.M. to 7:00 A.M., Boilermaker D. M. Pickett, Machinist J. P. Kane, Machinist L. G. Turk, Boilermaker Helper D. M. Hinkle, and Machinist Helper G. G. Clark worked at rerailing this engine. The rerailment was effected at 7:00 A.M.

The regular starting time of claimants is 7:30 A.M. They were subject to call and were available for this service.

The agreement dated effective September 1, 1948, is controlling.

**POSITION OF EMPLOYES:** It is the contention of the employees that when other than carmen were assigned to rerail this engine, Rule 88 of the controlling agreement was violated.

"Rule 88. Wrecking Crew.

Wrecking Crews, including derrick operators and firemen, will be composed of carmen who will be regularly assigned by bulletin and will be paid as per Rule 17 and 22.

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

The carrier holds that the intent of the parties in regard to the application of the rule herein is clearly evidenced by over 30 years of practice and that such practice, without protest or claim heretofore, has been to consider roundhouse tracks as not being yard tracks within the intent of the rule and for roundhouse employes to handle derailments on roundhouse tracks without the necessity of calling carmen unless the services of the wrecking crew were required.

**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.

On July 30, 1952, Engine No. 223 was derailed at Appleyard Roundhouse, Wenatchee, Washington as a result of running it off the end of the turntable. The hostler, the hostler helper, and mechanics and helpers from the roundhouse placed blocks under the wheels and the locomotive was pulled back on the track. The organization contends that the work belonged to carmen.

The controlling rule provides in part:

"Rule 88, Wrecking Crews.

Wrecking crews, including derrick operators and firemen, will be composed of carmen who will be regularly assigned by bulletin and will be paid as per Rules 17 and 22.

Where wrecking crews are called for wrecks or derailments outside of yard limits, the regularly assigned crew will accompany the outfit. For wrecks or derailments within the yard limits, sufficient carmen will be called to perform the work. \* \* \*."

The dispute necessarily involves the last sentence above quoted, to-wit, "For wrecks or derailments within the yard limits, sufficient carmen will be called to perform the work." The carrier concedes in its submission that if the derailment occurred on yard tracks, carmen would have been called. Carrier's submission is based on its contention that roundhouse tracks are not yard tracks and, consequently, not within the term "within the yard limits" as used in Rule 88. We think the roundhouse tracks are within the yard limits and that the distinction made by the carrier does not lead to the result for which it contends. This Board so held in Award 827. The last sentence herein quoted from Rule 88 clearly and unequivocally states that on derailments within yard limits sufficient carmen will be called to perform the work. Carmen should have been called in compliance therewith.

Carrier contends that the last sentence of the second quoted paragraph should be construed in connection with the first sentence thereof. In this connection we point out that the first sentence provides that when wrecking crews are called for derailments outside of yard limits, the assigned crew will accompany the outfit. In the second sentence carmen will be called to perform the work. The change of language is significant and sustains rather than denies the result at which we have arrived. The rule does not change the right of yard engine and switch crews, and hostlers and their helpers to rerail engines and cars, but where assistance is needed carmen should be called. Award Nos. 222, 827, 1008, 1442.

Carrier asserts a practice of using roundhouse employes in cases such as we have here. The organization denies the existence of any such practice. The record does not establish it.

The evidence preponderates in favor of carrier's contention that the locomotive was derailed at 6:30 A. M. and that it was rerailed at 7:00 A. M. Claimants should be paid in accordance with General Rule 17 (f).

AWARD

Claim sustained per opinion and findings.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 12th day of May, 1954.