

Award No. 2791

Docket No. 2583

2-AA-CM-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee D. Emmett Ferguson when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 77, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

THE ANN ARBOR RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

(a) That under the current agreement, the Carrier improperly relieved Carmen John McCall, Lester Lundie, Ernest Miller, William Behrens and James Volek, regularly assigned wrecking crew members, from 1 A.M. to 7 A.M. March 1, 1956 after completing wrecking service at Clare, Michigan.

(b) That accordingly, the Carrier be ordered to additionally compensate the afore-mentioned carmen for 6 hours each at the time and one-half rate for March 1, 1956.

EMPLOYEES' STATEMENT OF FACTS: On February 29, 1956, the Owosso, Michigan wrecking crew, consisting of John McCall, Lester Lundie, Ernest Miller, William Behrens and James Volek, hereinafter referred to as the claimants, was called at 12:30 P.M. for wrecking service at Clare, Michigan. The claimants, who are the regularly assigned crew and the outfit, left Owosso at 2 P.M. and arrived at the scene of the derailment at 5:15 P.M. Upon arrival, the crew immediately went to work, working continuously until 1 A.M. March 1, 1956 at which time the wrecking service was completed. The crew was then tied up until 7 A.M. March 1, 1956 at which time each member thereof was called to start working his regular shift hours. The wrecking crew was not compensated for the time it was tied up from 1 A.M. to 7 A.M. March 1, 1956.

This dispute has been handled in accordance with the provisions of the controlling agreement up to and including the highest designated officer of the

1, 1956. The carrier has presented uncontroverted evidence to prove that the changing of trucks under diesel locomotive unit 53-A at Mt. Pleasant was as much a part of the wrecking crew's assignment when it was dispatched from Owosso as was the clearing of the derailment at Clare. Therefore, the emergency road work for which the claimants were called was still not in fact completed at 1:00 A.M., March 1, 1956. Such being the case, it was entirely proper and plainly within the meaning and intent of B-Rule 10 to relieve the claimants from duty, and since that relief time was for five (5) or more hours, they are not entitled to be compensated for the six (6) hours during which they were relieved from duty between 1:00 A.M. and 7:00 A.M., March 1, 1956.

The contentions of the committee should be dismissed and the claim denied.

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 facts of this claim are not disputed. The claimants were called, left Owosso, went to Clare, completed the wrecking service there at 1:00 A.M., March 1, 1956, and were then tied up until 7:00 A.M. They were called for 7:00 A.M., March 1, 1956 and went from Clare to Mt. Pleasant where they changed trucks under Diesel 53-A, following which they returned to Owosso. The claim is for time and one-half for that period from 1:00 A.M. to 7:00 A.M.

The question is whether the claimant members of the wrecking crew were being given rest in the middle of an assignment, or whether they were waiting to be taken to a second assignment. The dual character of the trip creates the conflict of opinion. Clare was a wreck. Mt. Pleasant was a breakdown requiring a derrick.

The brotherhood urges that when the wrecking crew is called to a wreck, it should be permitted to be returned at the completion of the assignment. The carrier urges that they are entitled to send out a wrecking crew on emergency road service, with more than one chore at different places and if a rest period is granted between chores they should not be required to pay for the time as "waiting."

This Division is of the opinion that the rest provisions of the rule were written in contemplation of a single protracted assignment. The rule would undoubtedly have been phrased differently if it had been intended to permit sending a wrecking crew out on a variegated group of assignments. Award No. 1429 cited by both parties holds that where wrecking work had not been completed the night before, claimants were denied pay for time spent resting that night.

The facts herein show that the claimants had completed the wrecking work at Clare. We conclude that they were being held for the next work rather than being rested for a continuation of their assigned duties.

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AWARD

The claim is sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of **SECOND DIVISION**

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 27th day of February, 1958.