

Award No. 3289

Docket No. 3341

2-B&O-CM-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 30, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.—C. I. O. (Carmen)**

THE BALTIMORE AND OHIO RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1—That the current shop crafts' agreement was violated when on August 14 and 15, 1957, 3 carmen, 3 laborers, and 1 machinist helper were brought from Gassaway, West Virginia to Cherry Tunnell, West Virginia, to augment the Cowen, West Virginia, wreck train crew who were there rerailing 22 derailed cars.

2—That the Carrier be ordered to compensate 7 carmen from Cowen, West Virginia, for the amount they would have earned had they been called to perform this wrecking service. Time listed as follows:

H. S. Kittle	Aug. 14, 22 hrs.	Aug. 15, 14 hrs.
George Bragg	Aug. 14, 22 hrs.	Aug. 15, 14 hrs.
Charles Kitts	Aug. 14, 22 hrs.	Aug. 15, 14 hrs.
Bob Rader	Aug. 14, 22 hrs.	Aug. 15, 14 hrs.
Burl Matheney	Aug. 14, 7 hrs.	Aug. 15, 15 hrs.
F. Philips	Aug. 14, 14 hrs.	Aug. 15, 14 hrs.
Ralph Kittle	Aug. 14, 8 hrs.	Aug. 15, 14 hrs.

EMPLOYES' STATEMENT OF FACTS: At Cowen, West Virginia, the Baltimore and Ohio Railroad maintains a 100 ton wreck derrick wrecking outfit, and crew. In addition to the regular wreck crew members there are at least 14 other carmen mechanics at this shop who are capable of performing the duties of wrecking service.

On August 14, 1957, management dispatched the Cowen wreck train and crew, consisting of 1 foreman and 7 carmen, to Cherry Tunnell to rerail 22 freight cars derailed at that location, which is 14 miles from Cowen.

Shortly after the Cowen wreck train and crew arrived at Cherry Tunnell and started this rerailing work, 3 laborers, 1 machinist helper and three carmen

"* * * it is a well known fact that wrecking crews and outfits although maintained at specific locations are subject to be called and used anywhere on the Carrier's property that they are needed, therefore seniority on territory in which used is not pertinent to this dispute and any contentions to the contrary cannot be upheld. * * *."
(Emphasis added.)

It is the position of the carrier in this case that this claim is not supported under an application of any rules of the working agreement.

The carrier respectfully requests that this Division so hold and that this claim in its entirety be 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.

Parties to said dispute were given due notice of hearing thereon.

From the record before us, we conclude the parties are agreed **only** that there was a wreck at Cherry Tunnel, West Virginia on August 14, 1957, and the wreck train and crew were sent from Cowen, West Virginia. In view of the conflicting statements with respect to the claim generally, the Division is unable to determine a proper disposition.

AWARD

Claim remanded to the parties for further handling. If unable to dispose of same it may be resubmitted; but in that event, additional facts will be necessary to properly dispose of the complaint.

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

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 29th day of June 1959.