

Award No. 3411
Docket No. 3138
2-ACL-CM-'60

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee James P. Carey, Jr., when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.—C. I. O. (Carmen)

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the controlling agreement, the handling of tools, jacks, blocking, cables, hooks, making hitches, dismantling and reassembling trucks, rebrassing and repacking journal boxes in connection with wrecking service is Carmen's work.

2. That accordingly the Carrier be ordered to —

(a) Discontinue the use of other than Carmen to perform such duties.

(b) Compensate Carmen Robert Hill, Theodore Welch and Ed Small for 29½ hours each at the applicable time and one-half rate.

EMPLOYEES' STATEMENT OF FACTS: On April 15, 1957 a derailment occurred at Branford, Florida involving a total of 16 cars, two ACL Vent Box Cars, Four ACL Hopper Cars and Ten Refrigerator Cars, all of which are fully identified in the local chairman's letter of May 15, 1957 filing claim in behalf of Carmen Hill, Welch and Small, submitted herewith and identified as employees' Exhibit A. The Waycross, Georgia wrecker was dispatched to pick up wrecked cars at 9:30 A. M. April 15, 1957 and returned to home point with all wrecked equipment at 4:30 P. M. April 18, 1957.

In addition to the wreck master, Mr. A. G. Andrews, the following personnel accompanied the wrecker:

H. B. Purvis	— Wrecker Engineer	— Carman
J. R. Lee	— Wrecker Fireman	— Carman

The remainder of the claim hangs on the employes' statements that the laborers performed carmen's work by "dismantling and reassembling trucks, rebrassing and repacking journal boxes". Carrier's officers state positively that the three laborers in this dispute performed no such duties and certainly, under such circumstances, carrier could not be expected to allow the claims. In view of the sharp disagreement as to the work that was performed, carrier requests this Board to dismiss this section of the claim also.

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.

In view of the undisputed fact that for nearly 50 years shop laborers assigned to the Waycross, Georgia Wrecker on this property have handled tools, jacks, blocking, cables, hooks and made hitches in connection with wrecking service, we conclude that the provisions of the carmen's classification of work rule do not justify the implication that carmen possess an exclusive right to such work.

It is conceded that under the classification of Work Rule carmen have an exclusive right to dismantling and reassembling trucks and rebrassing and repairing journal boxes in connection with wrecking service. There is a sharp conflict in the evidence with respect to the claim that shop laborers performed some of this work at the scene of the derailment and en route from Branford, Florida to Waycross, Georgia. We are unable to find that this aspect of the claim is supported by a preponderance or greater weight of the evidence.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 3rd day of March 1960.