

Award No. 3576

Docket No. 3173

2-CofG-CM-'60

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Lloyd H. Bailer when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 26, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

CENTRAL OF GEORGIA RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the controlling agreement the regularly assigned members of the Cedartown Wrecking Crew should have accompanied the Cedartown Wrecking Outfit when it was sent to Jackson's Gap, Alabama to assist in picking up a wreck at that point.

2. That the Carrier be ordered to additionally compensate the members of the Cedartown Wrecking Crew the difference between what they were paid and what they would have been paid had they accompanied the wrecking outfit to Jackson's Gap, Alabama between May 21, 1957 and May 25, 1957, both dates inclusive.

EMPLOYEES STATEMENT OF FACTS: The Central of Georgia Railway Company, hereinafter referred to as the carrier, maintains a wrecking outfit at Cedartown, Georgia. This outfit consists of a 100-ton derrick, block car, tool car, and other necessary equipment. At the time of this claim, the regularly assigned wrecking crew consisted of a derrick engineer-leadman, and a derrick fireman who are carmen, and a carman helper who is used as a groundman hereinafter referred to as the claimants. By special agreement helpers and laborers from other crafts may be used as groundmen — but are not involved in this instant claim because they are not represented by the carmen's organization.

On May 19, 1957 one of the carrier's freight trains wrecked at Jackson's Gap, Alabama. Carrier used their Columbus wrecking outfit throughout this wreck; they also used the Southern Railway wrecker out of Birmingham, Alabama to help clear the mainline. The mainline was opened up on the morning of May 21st, 1957 and the Southern Railway wrecker released. The carrier sent the Cedartown wrecking outfit from Cedartown to Columbus, Georgia, with only a carman helper to ride it as a caretaker and he was forthwith returned to Cedartown. The carrier then manned the Cedartown wrecking outfit with a made-up crew at Columbus, Georgia and forwarded it, with the made-up crew, to Jackson's Gap, Alabama to work with the Columbus

It is clear, therefore, that the employes have not complied with the effective rules, and their blanket claim for unspecified individuals for unspecified dates is barred.

Without prejudice to our position that the claim is barred, the facts show that the claim is also without merit.

Attached hereto are copies of the principal correspondence relating to this dispute up to and including the memo of conference confirming decision of the director of personnel on January 16, 1958. Six copies of the memo of conference were sent to General Chairman Moon with letter dated January 20, 1958, and same were acknowledged by the general chairman by letter dated January 21, 1958 to Director of Personnel Collins.

It would have been senseless in this case to have taken every man away from Cedartown, Georgia, where there is only a very small force, and where they had their regular work, plus some overtime, to perform, and send them some 205 miles away in another state and on another line of the railroad to the wreck at Jackson's Gap, Ala. In fact, there are not employed at Cedartown, Georgia enough carmen to man the derrick. We sent the only man who could be spared to ride the derrick from Cedartown to Columbus, Georgia. Also, when the derrick got back to Columbus, we sent a carman from Cedartown to ride it back from Columbus to Cedartown.

Business was normal on the line running through Cedartown, and to have sent all the Cedartown shop force (including a few of 3 crafts) would have required sending men from Columbus Shop (or some other shop) to Cedartown. That would be like "sending coal to Newcastle", as the saying goes.

The Cedartown derrick in this case was used as an additional "tool" by the Columbus carmen and members of that wrecking crew. Rule 111 of the agreement clearly provides that

"When needed, men of any class may be taken as additional members of wrecking crews to perform duties consistent with their classification."

Certainly carrier was thus permitted to take carmen from Columbus to work with and assist the Columbus wrecking or derrick crew in the work. The claim clearly has no merit.

The burden of proof rests squarely upon the shoulders of the petitioners. See **Second Division Awards** Nos. 2554, 2042, 1996 and others. Also see **Third Division Awards** Nos. 7226, 7200, 7199, 6964, 6885, 6844, 6824, 6748, 6402, 6379, 6378, 6225, 5941, 5418, 2676 and others.

Since this blanket claim clearly is not supported by the current agreement on this property, and particularly in view of the circumstances involved, the Board should either dismiss the claim, or render a denial award.

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.

The state of the record in this case is such that we are unable to render a proper award to determine the merits of the dispute. The complaining employees are not named in the claim itself. Even if we were to hold that reference therein to "the regularly assigned members of the Cedartown Wrecking Crew" is sufficiently specific on its face, it is established that the derrick engineer member of the crew (who also was a regularly assigned car inspector) was on vacation at the time involved. There is direct conflict between the parties as to whether R. A. Smith, who was then serving as a car inspector in relief of the vacationing employee, also was a qualified derrick engineer. We have no way of resolving that question on the basis of the record before us. It will be further noted that the amount of work for which claim is made is not specified either in hours or dollars. It cannot be said that this information was beyond the Organization's ability to obtain.

As the initiator of this claim, the Organization has not met its responsibility to make a presentation which, if accepted with respect to the theory advanced, would enable this Board to render a final and definitive award.

AWARD

Claim dismissed without prejudice.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 4th day of November 1960.