Award No. 4131

Docket No. 3832

2-B&O-CM-'63

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Charles W. Anrod when award was rendered.

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 Carrier violated the controlling agreement by substitution for carmen comprising the Parkersburg wrecking crew other than carmen to complete clearing up the cars wrecked at No. 11 Tunnel, July 21, 1959.

2. That Carmen E. M. Summers, Crane Operator; S. F. Davis and R. E. Dulaney, groundmen of the regular assigned wrecking crew, in consideration of the aforesaid violation, be compensated under provisions of agreement from 5 A. M., to 7:05 P. M., on July 21, 1959.

EMPLOYES' STATEMENT OF FACTS: The carrier maintains a wrecking outfit and regular assigned crew at Parkersburg, W. Va. This wreck crew and outfit was called and assigned to work at a derailment at No. 11 tunnel on July 19th and 20th.

The clearing up of this wreck was not completed by the Parkersburg wreck crew but was completed by a crew called July 21, 1959 at 5:00 A. M. and was comprised of two (2) carmen cutting torch operators, one (1) Maintenance of Way crane operator and two (2) Maintenance of Way laborers, used as groundmen. This crew was called at 5:00 A. M. at Parkersburg and proceeded to No. 11 tunnel. The crane operator went with the engine to Elenboro and picked up the crane and returned to No. 11 tunnel. The crew was relieved at 7:05 P. M. the same day. The equipment used by these M. of W. trackmen consists of a crane used in repair to road bed and track.

The dispute was handled by carrier's officials designated to handle such affiairs who all declined to adjust the matter.

POSITION OF EMPLOYES: The employes contend that the carrier violated Rules 138, 141 and 142 of the current agreement by assignment of employes other than carmen to wreck crew to clean up wreck at No. 11 tunnel July 21, 1959.

"The uncontroverted facts contained herein disclose the following:

There was a serious wreck at Elso, Montana on December 22. The claimant wrecking crew members were sent to the scene and worked until 3:30 P. M., December 23, when they returned home. Service had been restored, although there were a number of cars damaged which were left at the site. Several days later some of those cars were scrapped and others were placed on trucks with the assistance of a crane of the B&B Department which was there to repair the bridge.

The employes now claim that Rule 88 which states in substance

'(a) Wrecking crews, * * * when needed, shall be composed of * * * carmen * * * .' and

'(c) When wrecking crews are called * * * a sufficient number of the * * * crew will accompany the outfit.'

in effect entitles the wreck crew 'to perform all wrecking service outside of yard limits.'

We do not agree with this contention because the language of the rule, as emphasized above, leaves to the management the determination of when the wrecking crew is needed."

CARRIER'S SUMMARY

There is no rule appearing in the carmen's special rules of the shop crafts' agreement to support this claim. Established practices on this property for many years have confirmed the use of other classes or groups of employes to do this work. There is no basis here for any claim from the regularly assigned crew of the Parkersburg work train outfit. That outfit had no rights to this work. This claim is not valid and the carrier asks that it 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.

On July 15, 1959, thirty-nine cars of train Time Saver West were derailed while it proceeded on the Carrier's Parkersburg (West Virginia) branch. As a result, the main line was completely blocked. The Carrier called the regularly assigned wrecking crew at Parkersburg to clear the main line. This crew included eleven carmen who are represented by the Brotherhood of Railway Carmen of America. The crew completed clearing the main line in the evening of July 16, 1959, but remained at the scene of the derailment until July 20, 1959. Thereafter, it was relieved from service and returned to Parkersburg.

On July 21, 1959, a maintenance of way work train was dispatched by the Carrier to the point of the derailment for the purpose of picking up scrap, residue, some car parts, and certain commodities carried in the derailed cars. This crew included one maintenance of way crane operator and two maintenance of way laborers who are represented by the Brotherhood of Maintenance of Way Employes. The work train crew spent the entire day in performing the work assigned to it.

The three Claimants, E. M. Summers, S. F. Davis, and R. E. Dulaney, who are regularly assigned to the Parkersburg wrecking crew and who belong to the carmen's craft, filed a grievance in which they contended that the work performed by the maintenance of way employes should have been assigned to them. They requested compensation in accordance with the pertinent provisions of the applicable labor agreement for the period from 5:00 A. M. to 7:05 P. M. on July 21, 1959. The Carrier denied the grievance.

1. In support of their claim, the Claimants chiefly rely on Rules 138, 141, and 142 of the labor agreement which read, as far as pertinent, as follows:

> Rule 138: "Carmen's work shall consist of . . . all . . . work generally recognized as carmen's work . . ."
>
> Rule 141: "Regularly assigned wrecking crews will be composed of carmen, where sufficient men are available . . ."
>
> Rule 142: "When wrecking crews are called for wrecks or derailments outside of yard limits, a sufficient number of the regularly assigned crew will accompany the outfit . . ."

The law of labor relations is well settled that a labor agreement must be construed as a whole. Single words, sentences or sections cannot be isolated from the context in which they appear and interpreted independently, irrespective of the obvious or apparent intent and understanding of the parties as evidenced by the **entire** agreement. The meaning of each sentence or section must be determined by reading **all** pertinent sentences or sections together and coordinating them in order to accomplish their evident aim. See Award 4130 of the Second Division.

In applying that principle to this case, we have reached the conclusion that Rules 141 and 142 make it clear that the work of a wrecking crew constitutes work generally recognized as carmen's work within the contemplation of Rule 138 and thus belongs to the carmen's craft. The basic question posed by this case is then whether the work performed by the maintenance of way employes involved such work. We do not think so.

It is undisputed that the maintenance of way employes loaded certain commodities (see: Organization's Exhibit "A"). But these commodities came from the destroyed cars (see: Carrier's Rebuttal Brief, p. 1). The Claimants themselves do not claim job rights over the handling of such commodities (see: Organization's Rebuttal Brief, p. 4). Thus, the Carrier did not violate the labor agreement when it assigned said work to the maintenance of way employes.

The carrier contends that the other work performed by the maintenance of way employes merely consisted of the removal of salvage, scrap or miscellaneous car parts which were left after the wrecking crew had cleared the right of way. There is nothing in the record which would in any way contradict the Carrier's contention. Under these circumstances, we are unable to find that

more was here involved than the simple cleaning up of scrap debris or salvage material which was performed after the wrecking crew had completed its wrecking services and, therefore, was purely incidental thereto. We do not regard such work as carmen's work within the purview of Rule 138. Accordingly, the assignment of such work to the maintenance of way employes was not violative of the labor agreement.

2. The Claimants have referred us to our Award 878. However, a careful examination of that Award reveals that the facts underlying it are distinguishable from those presented by the instant case. Award 878 was based on our finding "that more was involved in this work than cleaning up scrap and debris. The material was all sent to the shops . . . and the major portion of it was placed back in use." In the case at hand, the available evidence does not permit such a finding. On the contrary, the record is devoid of any indication that a major or at least a substantial part of the material handled by the maintenance of way employes was placed back in use. Accordingly, our previous Award is of no assistance in the disposition of the instant case.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 26th day of February, 1963.