

Award No. 4415

Docket No. 4157

2-B&M-CM-'64

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Joseph M. McDonald when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 18, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. — C. I. O. (Carmen)**

BOSTON AND MAINE RAILROAD

DISPUTE: CLAIM OF EMPLOYEES: (1) That under the Controlling Agreement, it was improper to use two sectionmen in rerailling Diesel Locomotive B. & M. 1535 March 16, 1961.

(2) That accordingly, the Carrier be ordered to compensate Freight Carmen J. Marino and J. Norton each in the amount of seven (7) hours at the rate of time and one-half on account of the fact they were not called to perform the work of rerailling said Diesel Locomotive.

EMPLOYEES' STATEMENT OF FACTS: On March 16, 1961, three carmen were called to reraill diesel locomotive B. & M. No. 1535 at Lynn, Massachusetts. Carman Shea from Lynn, Massachusetts and Carman D. F. Delong and E. Leopold from yard 8 shop, Boston, Massachusetts, who was sent in a truck containing blocks, jacks, and other tools which constituted an outfit to effect a reraillment. The above men apparently were unable to handle this job alone, so two sectionmen were used to assist these carmen in rerailling this locomotive, instead of calling in Carmen J. Marino and J. Norton, who were ready, willing and available to perform this service if they had been called to do so.

This dispute has been handled with all carrier officers authorized to handle grievances, including the highest designated official, with the result that he too declined to adjust it.

The agreement dated April 1, 1937, as subsequently amended, is controlling.

POSITION OF EMPLOYEES: It is respectfully submitted that regularly assigned wrecking crews, except engineers and firemen, must be composed of carmen, as provided by Rule 112, reading in pertinent part as follows:

“Regularly assigned wrecking crews (not including engineers and firemen) will be composed of Carmen * * * *”

when a wrecker is not called or needed, by the use of jacks, frogs, railers, blocks, and similar expedients . . ."

The Opinion further stated:

"(g) The use of section foremen, section laborers or other employes to rerail a car or locomotive, when a wrecker is not needed, does not violate the carmen's agreement."

Claim should be denied as it is without merit.

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.

Claimants are Carmen who contend that they should have been called to assist in a rerailing at Lynn, Massachusetts.

On March 16, 1961, three Carmen were called to rerail a diesel locomotive at Lynn, Mass. One Carman came from Lynn, and two Carmen arrived from Boston in a truck containing blocks, jacks and other tools.

Two Sectionmen were used to assist in the rerailing, and Claimants contend that this was a violation of the controlling agreement.

Rule 112 of the Agreement reads in part as follows:

"RULE 112. Regularly assigned wrecking crews (not including engineers and firemen) will be composed of carmen and will be paid for such service under Rule 7."

Rule 113 reads as follows:

"RULE 113. When wrecking crews are called for wrecks or derailments outside of yard limits, the regularly assigned crew will accompany the outfit. For wrecks or derailments within yard limits sufficient carmen will be called to perform the work."

The facts herein show that neither wrecking outfit nor the regularly assigned crew was called.

Under the circumstances, we cannot say that the exclusive right to this rerailment in question accrued to Carmen.

AWARD

Claims denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 18th day of February, 1964.