

Award No. 4862
Docket No. 4795
2-NYNH&H-CM-'66

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 17, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)

THE NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the New York, New Haven & Hartford Railroad Company violated the terms of the current agreement, Rule 110, paragraph 4, when on August 5, 1963 the complement of the wrecking crew, at New Haven, Conn., was reduced from fourteen (14) to eleven (11) members.

2. That accordingly the New York, New Haven & Hartford Railroad Company be ordered to restore the wreck crew, at New Haven, Conn., to its full complement of fourteen (14) members.

EMPLOYEES' STATEMENT OF FACTS: The New York, New Haven & Hartford Railroad Company, hereinafter referred to as the carrier, maintains a wrecking outfit at New Haven, Conn., consisting of a 250 ton hook, D100, a 175 ton hook, D6, caboose 0566, diner W158, tool car T78, 2 truck cars T30, T31, tender L64 & gondola X602 with a regularly assigned crew of 1 derrick engineer, 1 fireman, 1 cook, 2 tool car men, 3 riggers and 3 ground men.

Prior to August 5, 1963 the complement of the New Haven, Conn., wrecking crew consisted of the eleven (11) cited supra plus three (3) additional ground men, a regularly assigned crew of fourteen (14) members.

Sometime prior to June 17, 1963, three (3) of the regularly assigned members of the crew, at their own request, were relieved from wreck duty, thus, creating three (3) vacancies in the complement of the wrecking crew.

Several oral requests, by the local committee, to have these vacancies bulletined and filled were ignored by the carrier, who never at any of these oral discussions appraised the local committee of their intention to reduce the complement of the wrecking crew. In answer to a written request, by the local chairman of June 17, 1963, the carrier, by letter of August 5, 1963, informed the local chairman, that, "the permanent Tool Train crew is reduced by three members."

The first agreement between this company and System Federation No. 17, Railway Employees' Department, A.F.L.-C.I.O., was effective April 9, 1937. The agreement which was in effect for fifteen years prior to that date, and during which time the representation of our shop crafts was in the mechanical department association, contained no provision that the wrecking crew complement should be composed of carmen. During those years the wrecking crews were composed of employees of the various mechanical crafts. At that time our wrecking crew at Boston had only two carmen, the balance of the members being from other crafts.

During the negotiations leading up to the April 9, 1937 agreement, the parties recognized that these other craftsmen, who had held these assignments, should not be summarily removed therefrom, and they agreed that any replacements in the future for other than carmen would be drawn from the ranks of available carmen.

This does not say that every mechanic other than a carman would be replaced, but that if he were replaced, it would be by a carman.

In Award No. 2916 (Kiernan) of this division, the board has stated:

"The right of an employer, including the carrier herein, to arrange and control its forces and manage its business, has long been recognized, subject to its contractual obligations and as it may be limited by law."

In summary, we repeat

- 1) There is no rule which requires any stipulated number of men to be assigned to the wreck crew.
- 2) It is, and must remain, the carrier's prerogative to regulate its forces in accordance with the requirements of the service.
- 3) There is no claim that any individual has suffered harm.
- 4) The request of the employees is just that—a request. They are asking the board to write into our agreement something that is not now there, and this the board is not empowered to do.

Carrier respectfully suggests that the request of the employees be dismissed.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 waived right of appearance at hearing thereon.

Carrier maintained a wrecking outfit at New Haven, Connecticut, which

prior to June 17, 1963, had a wrecking crew, the complement of which was fourteen (14) members.

It is the Petitioner's contention that prior to June 17, 1963, three (3) of the regularly assigned members, of their own request, were released from wreck duty thus creating three vacancies in the complement of the wrecking crew. The Local Committee requested Carrier to have these three vacancies bulletined and filled. On August 5, 1963, Carrier notified the Local Chairman that "the permanent Tool Train crew is reduced by three (3) members." Petitioner contends that Carrier violated the fourth paragraph of Rule 110 of the current Agreement when on August 5, 1963, the complement of the wrecking crew was reduced from fourteen (14) to eleven (11) members.

The fourth paragraph of Rule 110 of the Agreement, upon which Petitioner relies, reads as follows:

"This rule agreed to with the understanding that the present complement of forces will not be disturbed but as vacancies occur substitution for other than carmen will be made from the ranks of available carmen."

It is Carrier's position that there is nothing in Rule 110 which requires the assignment of any fixed numbers of employees to the wrecking crew.

In Rule 110 there is no mention of any specific number of members that would constitute the complement of forces required. Neither is there anything in the Agreement which prohibits the Carrier from reducing the forces assigned to a wrecking crew. An employer has the right to arrange and control its forces and manage its business. It is a matter to be regulated by the requirements of the service. Nothing appears in the record which would indicate that the action of the Carrier in the instant case was either unjustified, arbitrary or capricious.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 13th day of April, 1966.