



**Award No. 5023**

**Docket No. 4957**

**2-EJ&E-CM-'67**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

The Second Division consisted of the regular members and in addition Referee Ben Harwood when award was rendered.

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 20, RAILWAY EMPLOYEES'  
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

**ELGIN, JOLIET AND EASTERN RAILWAY COMPANY**

**DISPUTE: CLAIM OF EMPLOYEES:**

1. That the Elgin, Joliet & Eastern Railway Company violated the current working agreement when, instead of using the regular and assigned wrecking crew and wrecking equipment, it used the equipment of the Joliet Railway Equipment Company and five members of the Mobile truck crew and three employes from the Joliet Railway Equipment Co., their own crane foreman, a total of nine (9) men, necessitating the use of a crane and wrecking equipment on February 1, 1964.

2. That the Elgin, Joliet & Eastern Railway Co. be ordered to compensate each member of the Joliet Wrecking Crew, Messrs. Sefcik, Szpiech, Mejia, Zupancic, Gomez, DeAnglis, Amiot and Horkey and Sandahl, four and one-half hours at the time and one-half rate account the violation.

**EMPLOYEES' STATEMENT OF FACTS:** The Elgin, Joliet & Eastern Railway Company, hereinafter referred to as the carrier, maintains at Joliet, Illinois a large repair facility, whereat it employs a substantial number of carmen and carmen helpers. It also maintains at Joliet, a wrecking outfit and regularly assigned wrecking crew consisting of eight (8) carmen, subject to call seven (7) days per week, around the clock to handle wrecks and derailments occurring on the property.

On February 1, 1964, Milwaukee Box Car 275179 and Rock Island Coach Car 4122 were derailed on carrier's Rockdale Branch main line, at Rockdale, Ill., just west of the Joliet Railway Equipment Co. plant.

Carrier dispatched Truck 157 with a 5 man crew from Joliet at 9:30 A. M. to the scene of the derailment where they were met by 106 ton derrick owned by Joliet Railway Equipment Company and 4 employes of that company, including foreman and derrick operator W. Kneppenberg. The crew and derrick from Joliet Railway Equipment Company along with the 5 man truck crew performed the rerailing work and the truck crew returned to Joliet at

not the claimants, who were not called and who had no contractual rights to be called. The members of the train crew involved in this derailment had just as much right to claim aggrievement as did the members of the wrecking derrick crew. Train crews have historically and traditionally rerailed cars on this property **even without the assistance of carmen** and, under certain circumstances, the train crews receive additional compensation for this service.

It is obvious that the organization is attempting through the minor dispute route and outside of the collective bargaining process, to obtain a rule requiring the carrier to go to the great expense of dispatching its huge wrecking derrick outfit and associated rolling equipment manned by a five-man train crew and the entire eight-man wrecking crew, each time a derailment occurs, regardless of how minor a character the derailment may be. As another example of the organization's efforts in this regard, see pending Second Division Docket No. 4694.

**CONCLUSION:** Summarizing, the carrier again points out the following:

1. There are two kinds of wrecking crews on this property — the wreck truck crew and the wrecking derrick crew.
2. The simple derailment of two empty cars at Rockdale on January 31, 1964 required the services of only the wreck truck crew.
3. The carrier dispatched the full wreck truck crew to rerailed the two cars and thereby fully complied with Rule 131.
4. The Joliet Railway Equipment Company was responsible for the derailment and the carrier properly allowed the industry to use its crane to assist in the rerailed. The assistance of the crane was not needed to rerailed the cars although it served to expedite the operation.
5. Your board should consider only Rule 131 in adjudicating the merits of this case.
6. The organization should not be allowed to achieve its goal of obtaining a new rule via the minor dispute route.
7. The claimants named by the organization are improper claimants.

The carrier submits that a denial award is clearly indicated.

**FINDING:** 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 waived right of appearance at hearing thereon.

In this claim, the record discloses that without question Carrier accepted an offer from the Joliet Railway Equipment Company for use of said company's crane, its crane foreman and three of its employes, working with five members of Carrier's mobile truck crew in order to effect a rerailment on Carrier's main line nearby the base of operations of said equipment company.

Claimants contend this was a violation of the Agreement of the parties, and specifically Rule 130 and 131 dealing with the composition and use of wrecking crew for wrecks or derailments outside of yard limits, in this instance because of the improper assignment of carmen not members of the wreck crew and use of Joliet Railway Equipment Company derrick and employes instead of ordering out the regularly assigned wrecking crew and wrecking outfit.

Without necessity of engaging further in a detailed discussion and analysis of the evidence which has been presented fully in the record before us, we are of the opinion that, by accepting the offer of the Joliet Railway Equipment Company for use of said company's crane and employes to aid in and about the wreck and rerailment, the Carrier did in fact determine that a wrecking derrick was needed and, as was said in Award 3629, if the Carrier's wrecking derrick had been called, the Claimants should have accompanied it. Accordingly, a sustaining award is required at pro rata rate.

#### **AWARD**

Claim sustained as per findings.

**NATIONAL RAILROAD ADJUSTMENT BOARD**  
By Order of **SECOND DIVISION**

**ATTEST:** Charles C. McCarthy  
Executive Secretary

Dated at Chicago, Illinois, this 20th day of January 1967.