

Award No. 5637

Docket No. 5545

2-GN-CM-'69

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Gene T. Ritter when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 101, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

GREAT NORTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the provisions of the controlling agreement, the Carrier, on January 13, 1966, violated said agreement by hiring a private concern at Cut Bank, Montana, a winch truck and operator, and, four Track Department employees, for the purpose of rerailling caboose X234 at Cut Bank, Montana.

2. That accordingly, the Carrier be ordered to compensate the Havre, Montana Wrecking Crew Members Richard Stees, Rheinhold Stuber, Arthur Beilke, Thomas Danell, George Turbak and Edward Winchell in the amount of thirteen (13) hours each at the time and one-half rate for January 13, 1966 account of said violation.

EMPLOYEES' STATEMENT OF FACTS: On January 13, 1966 the Great Northern Railway Company, hereinafter referred to as the Carrier, hired the Getter Trucking Company to assist four Track Department employees in rerailling Caboose GN X234 at Cut Bank, Montana.

The Getter Trucking Company employees and sectionmen worked approximately four (4) hours rerailling the caboose.

Under the terms of the controlling agreement the Havre, Montana Wrecking Crew, hereinafter referred to as the claimants, filed claims of thirteen (13) hours each; four (4) hours the others worked, plus nine (9) hours for traveling time to the derailment and return to Havre, at the time and one-half rate for January 13, 1967, account of said violation.

The Carrier denied payment on the grounds that an emergency existed at the time and that they had sent two men with the emergency road truck to reraill the caboose and that they were delayed because of inclement weather.

form rerailing work outside yard limits. (Second Division Awards 4303, 4268, 4825, 4826 and 4898.)

(Exhibits not reproduced.)

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 waived right of appearance thereon.

On January 12, 1966, a caboose was derailed at Cut Bank, Montana. The derailment did not block the main line, but did block the "oil spur" that was switched every afternoon. On the morning of January 13, two carmen were sent from Havre with a winch truck and rerailing equipment for the purpose of rerailing the caboose. Havre was located 130 miles from Cut Bank, the site of the derailment. Because of inclement weather, these two carmen were delayed and Carrier at Cut Bank hired two winch trucks from a private concern to rerail the caboose. This private concern was assisted by four of Carrier's section men. During the rerailing operation by the private concern, the two carmen arrived and also assisted in the rerailing. Claimants are members of the regularly assigned wrecking crew at Havre, Montana, and contend that they should have been sent to perform this work in compliance with Rule 88 of the Agreement which is as follows:

"Wrecking crews, including derrick operators and firemen, will be composed of carmen who will be regularly assigned by bulletin and will be paid as per Rules 17 and 22.

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 the yard limits, sufficient carmen will be called to perform the work.

Meals and lodging will be provided by the Company while crews are on duty in wrecking service.

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

This Board is of the opinion that this claim is without merit. This Board has decided many times that the rerailing of locomotives and cars is not the exclusive work of carmen when a wrecker is not called or needed. See Awards 1482 (Carter), 1757 (Carter), and 4821 (Johnson). The last named Award, 4821, arose on this property and involved these parties. Awards 2722 (Ferguson), 4903 (Harwood), and 4393 (Williams) hold that the actual wrecking crew must be called only when the outfit, or wrecker, is called and that

the need for calling the wrecker is a matter to be determined by the Carrier. Awards 4682 (Daly), 5032 (Weston) have determined that a winch truck does not constitute a wrecker or "wrecking outfit." Since this derailment occurred outside yard limits and for other reasons hereinabove set out, this claim will be denied.

Findings are that the Agreement was not violated.

AWARD

Claim denied.

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

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 7th day of February, 1969.