



Award No. 5696

Docket No. 5454

2-SLSW-CM '69

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee George S. Ives when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 25, RAILWAY EMPLOYEES'
DEPARTMENT, A.F.L.—C.I.O. (Carmen)**

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That Carrier willfully violated the rules of the current controlling agreement on January 10 and 11, 1966, when the Kansas City Southern Relief Crane Crew was sent to the Shreveport Train Yard to perform wrecker service on the St. Louis Southwestern Railway Company property, thereby damaging members of the Texarkana Wrecking Crew.
2. That the Carrier therefore be ordered to make whole the following members of the Texarkana Crew in the amount of twelve (12) hours each for said violations.

J. A. Clark—Car Inspector
J. H. Fuqua—Lead Carman
V. M. Jones—Carman Welder
G. V. Bruce—Lead Carman
E. Latham—Car Inspector
W. Q. Fee—Lead Carman
R. McDaniel—Car Inspector
J. O. Underwood—Car Inspector
C. O. Wilkins—Car Inspector

EMPLOYEES STATEMENT OF FACTS: The St. Louis Southwestern Railway Company, hereinafter referred to as the Carrier, maintains a repair track and train yard at Shreveport, Louisiana. The Tracks in this yard are numbered in this manner from the river side of the yard: Track No. 21, 20, 1, 2, 3, 4, 5, 6, 7, then main line track, and Tracks 8, 9, 10, roundhouse lead, Repair Tracks 15, 16, 17, and what is known as the Ardis Track, which loops around behind the roundhouse and repair track. On Monday, January 10, 1966, at 9:45 P.M., a switch engine sideswiped SSW 47883, derailling it, and fouling tracks 21, 20, and 1. A Transportation Department official called the Texarkana Wheel Truck at 9:50 P.M., to come to Shreveport to pick up the car. This four ton road trip truck maintained at Texarkana, is equipped to make repairs and to handle minor derailments

"The action taken by the carrier was justified and it should be relieved from the application of the rule here invoked."

Award 3697 (Referee Johnson) denied claim of carmen on the P&LE when wrecker crews from the W&M and B&O were used at a derailment. Findings included:

"This Claim is essentially the same as those involved in Awards 1027, 1065, 1068, 1124 and 1176 of this Division and Award 1374 of the Fourth Division, and requires the same result."

Those awards listed all denied claims involving the use of wrecking crews from a foreign line railroad to assist in rerailling cars.

Award 4400 (Referee Williams) denied claim of carmen on the Southern Railway when wrecker crane and wrecking crew from the Illinois Central Railroad was used at a derailment. Findings included:

"It has long been recognized that the reciprocal use of wrecking outfits does not violate the intent of rules which are similar to Rule 152 and Rule 153 of the current agreement between these parties. See: Award #1176. For the reasons stated above the claims should be denied."

It should be pointed out that Rule 90 in the case here is identical to Rule 153 involved in Award 4400.

In conclusion, Carrier submits that there was no violation of the agreement and respectfully requests that the claim be denied.

(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 at hearing thereon.

Petitioner contends that Carrier violated applicable rules of the controlling Agreement between the parties on January 10 and 11, 1966 when a wrecking outfit and crew of another railroad were sent to Shreveport, Louisiana to perform wrecker services on Carrier's property rather than Carrier's own regularly assigned wrecking crew and outfit located at Texarkana. Carrier urges that the disputed use of another Carrier's outfit and wrecking crew was in accordance with a reciprocal agreement between the Carriers as well as established practice in similar situations.

The record reveals that a car was derailed at a yard maintained by Carrier at Shreveport, Louisiana during switching operations, and that Carrier's heavy-duty 4-ton automotive truck dispatched from Texarkana

was initially used without success to re-rail the car. Thereafter, Carrier requested the Kansas City Southern Railway to send its wrecking crane and crew located in Shreveport to Carrier's yard and re rail the car, which was accomplished at approximately 10:30 A.M. on January 11, 1966. Although Carrier insists that the disputed assignment was a matter of convenience in accordance with established practice, it is undisputed that no emergency situation existed as delay of trains was not involved. Moreover, approximately twelve hours elapsed before the disputed work was finally performed by another Carrier's outfit and wrecking crew.

Analysis of the record reveals facts and circumstances analogous to those considered by this Division in our Award No. 4838. Accordingly, we find that the instant claim must be sustained, but that the measure of compensation for the work lost should be at a pro-rata rate for actual time worked in performance of the disputed assignment.

A W A R D

Claim sustained as modified by the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 29th day of May, 1969.