



Award No. 5930

Docket No. 5711

2-A&S-CM-'70

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee John H. Dorsey when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION No. 154,
RAILWAY EMPLOYES' DEPARTMENT, A.F.L.-C.I.O.
(CARMEN)**

THE ALTON AND SOUTHERN RAILWAY COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current agreement the carrier improperly assigned other than regularly assigned wrecking crew members to perform wrecking service on June 11, 1967.
2. That accordingly, the Carrier be ordered to make wrecking crew members Farris and Urke whole by additionally compensating each in the amount of a five-hour minimum call.

EMPLOYES' STATEMENT OF FACTS: Carmen Farris and Urke, hereinafter referred to as the claimants, are employed by the Alton and Southern Railroad, hereinafter referred to as the carrier, at East St. Louis, Illinois. Each claimant is a regularly assigned member of the wrecking crew.

At 6:35 A.M., June 11, 1967, freight cars N&W 55887 and IC 133398 became derailed on tracks 29 and 30 in the bowl of the Hump Yard. At 8:00 A.M. on that date, when the repair track force reported for work, General Foreman West secured two carmen who are not members of the wrecking crew from the repair track force and rerailed the two cars in question. The derailment of the two cars blocked only tracks 29 and 30 in the Bowl Yard.

This dispute has been handled with carrier officials up to and including the highest officer so designated by the Company, with the result he has declined to adjust it.

The agreement effective January 29, 1947, as subsequently amended, is controlling.

POSITION OF EMPLOYES: It is the position of the employees that the claimants should have been called to perform the work of rerailing cars outlined in our statement of facts. Rule 51 of the current agreement as revised in the memorandum of agreement dated November 13, 1963, reads in pertinent part:

"For wrecks or derailments on the Alton and Southern Railroad a sufficient number of the wrecking crew will be used, and such service

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.

Rule 51, sometimes called Article 51, in the schedule agreement between Carrier and Carmen, effective January 29, 1947, reads as follows:

"RULE 51. When crews are called for wrecks or derailments in the yards or on the road they shall consist of mechanics and helpers of the craft."

(Emphasis supplied.)

A Memorandum of Agreement dated November 13, 1963, containing an agreed-upon interpretation of Article 51 to be effective September 1, 1963, provides in material part to the issue before us:

"For wrecks or derailments on the Alton and Southern Railroad a sufficient number of the wrecking crew will be used, and such service will be covered by existing rules. This provision does not prohibit the use of employees other than carmen to rerail engines or cars they are handling.

* * *

It is understood that the adoption of this Memorandum of Agreement is made necessary as a result of this carrier's acquisition of a diesel powered derrick, to be used in wrecker service. **This Memorandum of Agreement is adopted to provide an understanding between the parties as to how wrecking crews will be established and paid, when used.**

The parties further recognize that this carrier expects to begin operation of a new electronic hump yard sometime during the year 1964, and that the derrick was purchased so that any wrecks or derailments occurring at critical points in the new yard could be cleared up with the least possible delay. In recognition of this need, the parties agree that if a derailment or wreck occurs on any track of the new yard, the result of which is an interruption of the classification operation, any carmen or carmen helpers available, employed in the yard or on the repair track may be used in wrecker service in such emergency." (Emphasis supplied.)

The Carrier is a switching line located in East St. Louis, Illinois, across the river from St. Louis, Missouri. The Carrier interchanges cars between the major Eastern lines and the railroads serving the Southwest. All cars received in interchange must be switched according to destination before delivering to the connecting line. In 1964, the Carrier constructed a modern electronic hump yard to expedite the switching of the cars. The efficient operation of the hump yard requires the continuous humping of cars since all switching operations are stopped when it becomes impossible to hump cars.

The hump yard has 42 bowl or classification tracks. Each track is designed to receive cars for a specified destination.

It is incontroverted that at 6:35 A.M. on June 11, 1967, freight cars NW 55857 and IC 133398 derailed on tracks No. 29 and 30 as they rolled from the hump into the classification yard. The derailments of the two cars made it necessary to discontinue humping or switching cars into these tracks until the derailment was cleared up. The record contains no evidence that humping operations had to be discontinued on any other tracks in the yard.

Cars placed on Track 29 are destined for Rose Lake, a yard of the Penn Central in East St. Louis.

Cars placed in Track 30 are destined for the St. Louis Southwestern Railroad (Cotton Belt).

As soon as the derailments occurred it was necessary for the yardmaster to place any cars being humped destined for Rose Lake on SSW in other tracks. When cars are being placed in another track, as in this case, the switch crew pulling the bowl tracks at the time cuts of cars are being assembled for delivery to connecting lines must first switch the cars so as to separate the cars by destination. This is a disruptive procedure in the hump yard destination; but it does not create an emergency situation in the hump yard which otherwise continues to function.

After the supervisor inspected the conditions at the scene of the derailment it was determined by Carrier that the derrick used for rerailing cars would not be required but that the cars could be pulled back on the rail by using blocks and frogs. Arrangements were made to have two Carmen from the repair track, reporting for duty at 8:00 A.M. to rerail the cars as soon as they came on duty. They did so.

The Local Chairman presented a claim on behalf of two of the Carmen regularly assigned to the wrecking crew for five hours each on the basis that the members of the wrecking crew should have been called to handle the derailment. The claim was based on the argument that a yard crew could not rerail the two cars and that members of the wrecking crew should have been called if it were necessary to use Carmen.

Rule 51 leaves to management the decision as to when wrecking crew need be called. It reflects an understanding of the parties that situations might arise where it would not be necessary to call a wrecking crew for the purpose of rerailing cars. See and compare our Award No. 5768 and Third Division Award 12358.

In the Memorandum of Agreement between the parties dated November 13, 1963, *supra*, it was agreed "if a derailment or wreck occurs on any track of the new yard, the result of which is an **interruption** of the classification operation, any carmen or carmen helpers available, employed in the yard or on the repair track may be used in wrecker service in such **emergency**." (Emphasis supplied.)

In the instant case there was, unquestionably, a **disruption** in the hump yard service. There was no interruption—the hump yard continued to operate although not at maximum efficiency. There was no "emergency" within the contemplation of that term as employed in the Memorandum of Agreement dated November 13, 1963. The claim is without merit.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: E. A. Killeen
Executive Secretary

Dated at Chicago, Illinois, this 7th day of May, 1970.