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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 6390  
Docket No. 6261  
2-HB&T-CM-'72

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

Parties to Dispute: ( System Federation No. 2, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Carmen)  
( Houston Belt & Terminal Railway Company

Dispute: Claim of Employees:

1. That the Houston Belt & Terminal Railway Company violated the controlling agreement, particularly Rules 9(c) and 115 when Wrecker Foreman F. Gradler, Wrecker Engineer J. Qualls, Wrecker Crew Members Carmen G. McElroy, C. Jones, V. Gardner and E. Hartner were not called to accompany Wrecker X-156 when it departed the Diesel Shop at 5:00 A.M., April 12, 1971, for Belt Junction.
2. That accordingly, the Houston Belt & Terminal Railway Company be ordered to compensate the aforesaid employes in the amount of three (3) hours each at the applicable time and one-half rate for the aforesaid violation, and in addition to the money amounts claimed herein, they shall be paid an additional amount of 6% per annum compounded annually on the anniversary date of the claim.

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.

The Claimants consisted of a six man regular wrecking crew employed by the Carrier at Houston, Texas. On April 10, 1971, a train was derailed some 16 miles outside of the Carrier's yard limits. On April 12, 1971, Wrecker X-156 departed the Diesel Shop at about 5:00 A.M. and was placed by a switch engine crew at Belt Junction. At 7 A.M. upon reporting to work Claimants, as instructed by their foreman, were bussed in a Carrier vehicle from the Diesel Shop to Belt Junction where they boarded the wrecker to go to the site of the derailment. Upon completion of the rerailling the crew accompanied the Wrecker X-156 back to the Diesel Shop returning at about 7:40 P.M. that night.

Rule 9 titled "Emergency Road Work" reads in part as follows:

"(a) An employee regularly assigned to work at a shop, engine house, repair track, or inspection point, when called for emergency road work away from such shop...

(c) Employees will be called as nearly as possible one hour before leaving time, and on their return will deliver tools at point designated..."

The pertinent portion of Rule 115 which relates to this matter is:

"When wrecking crews are called for wrecks or derailments outside of yard limits, a sufficient number of the regularly assigned crews will accompany the outfit...."

With respect to the Claimants interpretation of Rule 9 (c) we do not find that the facts support the contention that an emergency existed on April 12, 1971, since the derailment had occurred two days earlier. Further, neither a careful study of the rules nor the evidence presented in this case support the position that Rule 9(c) requires an hours pay.

Careful and well documented arguments have been presented with respect to the meaning of Rule 115 and many decisions upholding contention of the Claimants that the crew must accompany the wrecking outfit while in transit to and from the scene of derailments outside of yard limits. We concur in the general interpretation of Rule 115. However, in this case we must distinguish the facts from most of these cases (e.g. 2nd Division Award #5678); in this case the Claimants did accompany the Wrecker from the Carrier's property to the scene of the derailment. The crew did not accompany the wrecker from the Diesel Shop to Belt Junction, all within the Yard limits; this does not constitute a violation of Rule 115.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: E. A. Killen  
Executive Secretary

Dated at Chicago, Illinois, this 27th day of October, 1972.