

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

Parties to Dispute: (System Federation No. 18, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(Portland Terminal Company

Dispute: Claim of Employees:

1. That under the provisions of the current applicable agreement, Carman F. G. Ham, regularly assigned member of the wreck crew, employed at Rigby Car Shop, is entitled to be additionally compensated for seven and one-quarter ($7\frac{1}{4}$) hours at the carmen's punitive rate of pay on November 7 and 8, 1971, between the hours of 6:15 P.M. and 1:30 A.M. for service he would have performed had he been called properly.
2. That accordingly, the Carrier be ordered to compensate Carman Ham for seven and one-quarter ($7\frac{1}{4}$) hours at the time and one-half rate of pay for said violation on November 7 and 8, 1971.

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.

It is stipulated that on November 7, 1971 at approximately 6:15 P.M. supervision at Portland Terminal Company undertook to summon and constitute a wreck crew to perform wrecking service at Falmouth, Maine.

It is further stipulated that Claimant was a regularly assigned wreck crew member on the Portland wreck outfit headquarters at Rigby Yard, South Portland, Maine. Also that on the basis of his standing as such, he was entitled to be called for this assignment under Special Rule No. 97 of the Schedule of Rules between the parties. This reads:

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

Carrier's Superintendent of Car Maintenance states that he phoned Claimant for the purpose of summoning him to this assignment but encountered a busy signal; he thereupon proceeded to phone other Carmen in seniority sequence until the needed crew was filled without the use of Claimant.

Claimant states that he was at home between the hours of 6:15 p.m. and 7:45 p.m. that evening and his phone was not in use during this period.

Employees contend that a reasonable effort was not made to insure contact with and assignment of Claimant. In their view, such reasonable effort should have included verification of number and busy signal by an additional call to operator, even if busy signal was at first encountered. They point out that there was sufficient time for this inasmuch as crew was not scheduled for assemblage and departure until 7:45 p.m.

We agree with Employees that the admitted failure to take minimal step of verification of busy signal - not shown likely to cause impediment to Carrier for expeditious assembly and departure of wreck crew - constituted a default in reasonable carrying out of obligation to call petitioner under Rule 97.

In conformance with settled precedents, regular, rather than punitive restitution will be allowed.

A W A R D

Claim sustained to extent of payment of seven and one-quarter (7 $\frac{1}{4}$) hours at the regular rate.

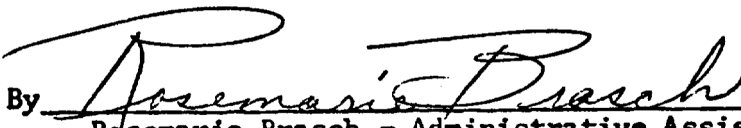
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Award No. 6682
Docket No. 6444
2-PT-CM-'74

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this, 26th day of April, 1974.