

The Second Division consisted of the regular members and in addition Referee Dana E. Eischen when award was rendered.

Parties to Dispute: (System Federation No. 21, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Central of Georgia Railroad Company

Dispute: Claim of Employees:

1. That under the current Agreement Carman L. A. Carson was not called to assist in re-railing SOU-140177 at Millen, Ga. on March 26, 1973, in violation thereof.
2. That accordingly, the Carrier be ordered to compensate Carman L. A. Carson for thirteen and one-half ($13\frac{1}{2}$) hours at the rate of time and one-half.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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.

In this claim Carman L. A. Carson alleges Carrier violated the controlling Agreement at Rule 111 and paragraphs 2 and 3 of a Memorandum of Agreement dated August 1, 1956 effective September 1, 1956. The cited provisions read in pertinent part as follows:

Rule 111:

* * *

"Wrecking crews, including wrecking derrick engineers and firemen and two (2) groundmen, will be composed of carmen who will be regularly assigned by bulletins and will be paid as per rule 10."

* * *

"2. Two additional carmen's positions on each the Macon, Savannah, and Columbus Wrecking Crews will be established as alternates, or used if and when additional Carmen are needed. Alternates will be called in seniority order when needed.

3. Re-railing locomotives and/or cars, unless re-railed by train or engine crews, will be performed by groundman members of wrecking crews or their alternates when available. Exception: Members of the Carman's Craft at Chattanooga, Tennessee and Industry, Georgia may be used to re-rail equipment."

Claimant, with seniority dated from July 3, 1970, holds a regularly assigned second trick position at Dillard Yard, Savannah, Georgia and is also an extra or alternate groundman of the Savannah wrecking crew; being called and used as needed for derailment service. Carman Adolph Yomans, with seniority date from April 3, 1970 (therefore senior to claimant) held at the time this claim arose, a first shift assignment at Savannah with rest days of Monday and Tuesday. Yomans is neither a regularly assigned nor alternate member of the derrick crew. The gravamen of this claim is the allegation that Carrier wrongfully directed Yomans to perform rerailing work on March 26, 1973 rather than calling in Claimant, who was off duty and available.

There is no question of contractual ambiguity or interpretation in this case; the language is clear. Nor is there any contesting that Claimant was an alternate on the wrecking crew. Careful perusal of the record reveals that the sole point of contention herein is whether Yomans did in fact perform the disputed work at the direction of Carrier. In this connection, Carrier maintains inter alia, that Yomans was not ordered or directed by anyone in authority to perform the disputed work; that two regularly assigned first shift wrecking crew groundmen were directed to perform the work and no alternate was needed; and that therefore, if Yomans arguendo performed any such work, it was as a volunteer and not by direction of Carrier.

Careful analysis of this record reveals the following: 1) Carman Yomans, while working on his assigned trick on Sunday March 25, 1973, was instructed to report for a road trip on Monday, March 26, 1973, his assigned rest day. The record supports Carrier's assertion that Yomans was first out on the overtime board; 2) Carrier asserted, and it was not refuted, that Yomans was instructed on March 26, 1973 to take the Company truck to Millen, Georgia to re-wheel a car, Southern-60048; 3) Also on March 26, 1973 two regularly assigned derrick groundmen were under instructions to proceed to Millen, Georgia to re-rail a derailed loaded woodrack car, Southern-140177; 4) The vehicle transporting Yomans

and two pairs of wheels broke down on the way to Millen and the re-wheeling job had to be postponed; 5) Yomans, after disposing of the Company truck, proceeded to Millen where he rendered some assistance to the two groundmen who were re-railing the derailed woodrack; 6) All of the employees returned to Savannah home station and were paid for March 26, 1973 for $13\frac{1}{2}$ hours (Yomans, for whom March 26 was a regular rest day received $13\frac{1}{2}$ hours at the overtime rate and the other two employees received 8 hours at straight time and $5\frac{1}{2}$ hours at overtime rates). (Emphasis added).

On the basis of this record, we must conclude that there is no evidence that Yomans acted under the directions or instructions of any Carrier supervisor. Indeed, such evidence as is in the record supports Carrier's assertion that Yomans was instructed not to work on the re-rail operation but rather on the re-wheeling. This Board, in numerous awards of several Divisions has adopted the principle that work voluntarily performed by an employee without direction or control of Carrier, shall not support a claim by another for misassignment of work. We find such reasoning pertinent and persuasive herein and shall, accordingly, deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 9th day of May, 1975.