

The Second Division consisted of the regular members and in addition Referee David P. Twomey when award was rendered.

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

Dispute: Claim of Employees:

1. That under the current Agreement, the Carrier improperly relieved Carman C. E. Scarbrough, A. D. Buckner, C. L. Waddle, W. E. Price and R. F. Hooper, regular assigned wrecking crew members at Chattanooga, Tennessee from 11:59 P.M., January 16, 1974 to 7:00 A.M., January 17, 1974 after completing wrecking assignment at New River, Tennessee.
2. That accordingly, the Carrier be ordered to additionally compensate the afore-named carmen for seven (7) hours each at the rate of time and one half for time waiting on January 17, 1974.

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.

A derailment occurred on January 10, 1974, at New River, Tennessee and the Chattanooga wrecker and crew as well as the Danville, Kentucky wrecker and crew were dispatched and used in wrecking service at the scene of the derailment. While these crews were performing wrecking service at New River, another derailment occurred near Harriman Junction, Tennessee, approximately 40 miles south of New River. Claimants were on duty at New River starting on January 10, 1974. They continued to work at New River from that date to the dates in question. The Claimants were on duty from 7:00 A.M. until 11:59 P.M. on January 16, 1974, when they were relieved. They were called for duty at 7:00 A.M. on January 17, 1974 and departed to clear up the derailment at Harriman Junction at 10:00 A.M. No work was actually performed at New River on January 17 by the Chattanooga crew, although wrecking service work remained to be performed at the New River site, that being the loading of 28 trucks, which work was thereafter performed by the Danville wrecking crew.

The Organization contends that no work was done at the New River derailment after 11:59 P.M. on January 16, 1974, and that time held after completion of work at a derailment site is "waiting time" within the meaning of Rule 10. The Carrier contends (among other things) that the time in question was a relief period where claimants were permitted to go to bed for five hours or more, as set out in Rule 10. The Carrier contends that there was wrecker work to be performed following the relief period.

The Carrier originally planned that on the morning of January 17th, the Chattanooga derrick would load one gondola with some of the 28 trucks that remained on the ground at New River before departing from Harriman Junction (Employee Exhibit "D"). Unforeseen delay caused time to be a factor and it proved necessary for the Carrier to dispatch the Chattanooga derrick and crew for Harriman Junction before any actual work was done at New River on the morning of January 17, 1974 (Employee Exhibit "E"). Clearly the wrecker work at the New River site was not completed at the time the Claimants were relieved from duty at 11:59 P.M. on January 16, 1974. The Claimants were called for wrecking service duty at New River starting at 7:00 A.M. They were not released to go to Harriman until approximately 10:00 A.M. It is the Carrier's prerogative, except as limited by statute or agreement, to schedule work as the circumstances, sometimes unanticipated, require. The fact that planned and existing work was not performed at New River by the Chattanooga crew due to unforeseen circumstances cannot convert a duly initiated relief period into a waiting period. We shall 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 12th day of December, 1975.