

The Second Division consisted of the regular members and in addition Referee Higdon C. Roberts, Jr. when award was rendered.

Parties to Dispute: { System Federation No. 7, Railway Employees'  
Department, A. F. of L. - C. I. O.  
(Carmen)  
Soo Line Railroad Company

Dispute: Claim of Employees:

1. The Soo Line R.R. Co. violated Rules 28, 94, 97 and 98 of controlling Agreement when on Dec. 15 and Dec. 16, 1977 they secured the services of an outside contractor consisting of two mobile cranes, two caterpillars tractors, operators and two groundmen to rerail cars from a previous derailment at Wheeler, Wis.
2. That accordingly the Soo Line R.R. Co. be ordered to compensate the Shoreham Shops, Minn. Wrecking Crew members, namely,

Carmen	William Fish	Wrecker Engineer
	John Weingartner	Groundman
	Steve Martinson	Groundman

in the amount of 9 1/2 hours at time and one-half rate of pay each on Dec. 15, 1977 and 6.1 hours at time and one-half rate of pay each on Dec. 16, 1977.

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.

A review of Rules 28, 94, 97 and 98, as well as numerous prior decisions dealing with the interpretation of said rules in similar circumstances (Awards Nos. 6286, 6602, 6177, 6218, 6286, 6324, 6361, and 7979) reveals no specific nor exclusive right to claimants to perform or participate in wrecking service. The carrier has the right to determine the need, according to the circumstances, of outside assistance. In the instant case, carrier determined it was safer and more expeditious to use outside help.

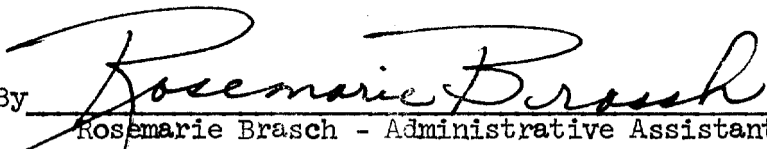
The carrier did call 6 carmen of the wrecking crew. They determined 6 was all that was necessary for the work. The claims of carmen Weingarten and Martinson are based on the premise that the 2 groundmen of the outside contractors performed their work. There is no evidence to substantiate such a claim. The groundmen of the contractor were an integral part of the work team and could not have been replaced by the claimants. Mr. Fish was called twice to work, but refused, saying it was not his normal work. His proper response should have been to accept the call, and if he felt he had been improperly placed, grieved after the fact.

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 - Administrative Assistant

Dated at Chicago, Illinois, this 23rd day of July, 1980.