

The Second Division consisted of the regular members and in addition Referee Martin F. Scheinman when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States
(and Canada
(
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company violated Article VII of the Agreement of January 12, 1976 when they employed outside contractor, Secrest Emergency Service, to perform wrecking ground work at Alma, Arkansas, August 14, 1978.
2. That the Missouri Pacific Railroad Company be ordered to compensate Carmen P. A. Piechoski, H. E. Ison, B. G. Pruitt, H. Phillips, H. A. Armstrong, and M. H. McGary in the amount of twenty-three and one-half (23½) hours at the punitive rate account of this violation.

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.

Claimants, Carmen, P. A. Piechoski, H. E. Ison, B. G. Pruitt, H. Phillips, H. A. Armstrong, and M. H. McGary, are ground crew members of the Little Rock, Arkansas wrecking crew. The Organization contends that Carrier violated Article VII of the Agreement when it did not call Claimants to clear a derailment at Alma, Arkansas on August 14 and 15, 1978. Carrier ordered its Coffeyville, Kansas wrecking outfit and crew to perform the wrecking service. An outside contractor, Secrest Emergency Service of Tulsa, Oklahoma was also called to the derailment site. The contractor supplied a ground crew of 10-12 men to work with contractor's equipment.

Article VII, in pertinent part states:

"When pursuant to rules or practices, a carrier utilizes the equipment of a contractor (with or without forces) for the performance of wrecking service, a sufficient number of the carrier's assigned wrecking crew, if reasonably accessible to the wreck, will be called (with or without the carrier's wrecking equipment and its operators) to work with the contractor. The contractor's ground forces will not be used, however, unless all available and reasonably accessible members of the assigned

"wrecking crew are called. The number of employees assigned to the carrier's wrecking crew for purposes of this rule will be the number assigned as of the date of this Agreement.

NOTE: In determining whether the carrier's assigned wrecking crew is reasonably accessible to the wreck, it will be assumed that the groundmen of the wrecking crew are called at approximately the same time as the contractor is instructed to proceed to the work."

The Organization contends that Claimants, the Little Rock wrecking crew, should have been called to assist the Coffeyville wrecking crew because they were as accessible and available as the Secrest Emergency Service. Further, Organization argues that there was not a sufficient number of men called to the derailment as addressed in Rule 120 of the Agreement.

Rule 120 of the Agreement reads:

"Rule 120. When wrecking crews are called for wrecks or derailments outside yard limits, a sufficient number of the regularly assigned crew will accompany the outfit."

The Organization does not dispute Carrier's right to use contractor's equipment but it alleges that Carrier did not call a sufficient number of its own wrecking crew.

It is the contention of the ~~Carrier that the Little Rock crew was not needed~~ because all of the carmen's work was performed by the Coffeyville crew. Carrier also states that under Article VII, there is no requirement to call more than one crew to the site of a wreck or derailment.

There was substantial argument offered by both parties regarding alleged territorial rights by the wrecking crews involved in this dispute. The absence of contractual language involving geographic assignments removes that item from consideration here.

We are not persuaded that Carrier failed to provide a sufficient number of men to perform the wrecking service. Under Article VII, Carrier was clearly not obligated to call more than one crew. It need only call one wrecking crew. It did so here. The assigned wrecking crew was the Coffeyville wrecking crew. See Award No. 8106.

The Organization has also failed to provide evidence which would support the contention that the contractor's ground forces should not have been used. Article VII allows for the use of contractor's ground forces if all available and accessible members of the assigned wrecking crew are called.

For these reasons, we find that Carrier met its obligations under Article VII and Rule 120. Therefore, this claim must be denied.

Form 1
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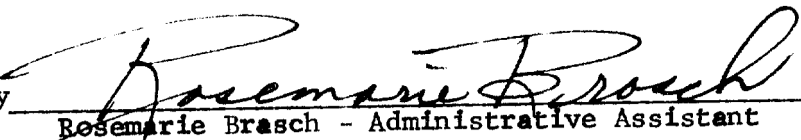
Award No. 8800
Docket No. 8694
2-MP-CM-'81

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 28th day of October, 1981.