

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: ((Brotherhood Railway Carmen of the United States and Canada
(The Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

1. That Carrier violated the controlling Agreement when on the dates of February 20, and 21, 1979, they allowed an outside contractor, Penn Erection Company and forces to perform rerailling and/or wrecking work, as well as making temporary repairs to freight cars at Green Junction, Pennsylvania work that accrued specifically to carmen, members of the Cumberland assigned wrecking crew, by virtue of the provisions of the December 4, 1975 Agreement, as well as Rule 138 and Rule 29 of the Shop Crafts' Agreement, thus depriving claimants of their contractual rights.
2. That the Carrier be ordered to compensate the following claimants for their losses arising out of this incident; Carmen, L. B. Mathias, A. T. Rice, Jr., P. H. Sibley, W. C. Shaffer, G. R. Shafferman, J. E. Price, L. D. Saville, J. E. Bierman, and A. F. Hinkle, each, for nine hours at the time and one-half rate and eight hours at the doubletime rate; S. E. Teets for seventeen hours at the time and one-half rate; H. E. Fraley and W. D. Rawnsley each, for seventeen hours at the time and one-half rate and two hours at the doubletime rate; E. F. Ellis for ten hours at the time and one-half rate and eight hours at the doubletime rate.

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.

In response to a derailment at Casparis, Pennsylvania, on February 19, 1979, the Carrier called the Connellsville wreck train at 7 P.M.; the Cumberland wreck train at 8 P.M.; and also an outside contractor, the Penn Erection Company. At 11:50 P.M., the Carrier decided that the Cumberland wreck train would not be needed, and the Cumberland wreck crew was directed to return to its assigned base prior to having reached the derailment at Casparis.

The Organization claims that the Cumberland wreck crew should have been permitted to continue to the derailment to work with the outside contractor.

Article VII of the December 4, 1975 Agreement states in part:

"1. 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 reasonable 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."

In its principal defense, the Organization argues that the Connellsville wreck crew worked on one end of the derailment, while the outside contractor's forces worked on the other end. Thus, according to the Organization, the Connellsville crew did not meet the requirement of working "with" the contractor.

The Board does not take this limited view of Article VII. The calling of the Connellsville crew to work on the same derailment readily satisfies the requirement of utilizing "the carrier's assigned wrecking crew".

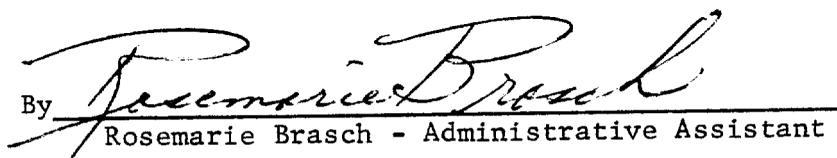
Awards Nos. 8106, 8107 and 8800 reach identical conclusions and are supportive of the Board's findings here.

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 16 day of June, 1982.