

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

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

Dispute: Claim of Employees:

1. That Carrier violated the rules of the controlling Agreement, specifically, Rules 15, 29, 138, 142 and the December 4, 1975 Agreement, Article VII, when on the date of February 12, 1980, they failed to call Carmen H. W. Plum, J. Delawder, M. L. Nelson, D. L. Ansel and F. M. Gardine, extra wreck crew personnel, to a derailment about thirty two (32) miles east of Cumberland, Maryland, at Orleans Road, involving nineteen (19) cars and four (4) units of diesels. Carrier called to this derailment two (2) outside contractors, Hulcher Emergency Service out of Johnstown, Pennsylvania, who arrived on the scene with equipment twelve (12) groundmen and two (2) Foremen, and Hulcher Emergency Service out of Gettysburg, Pennsylvania, who arrived on the scene with an additional ten (10) groundmen and two (2) Foremen. Carrier's failure to abide by the provisions of Rule 15, to bulletin permanently vacant positions, positions that were in effect and active, as of the date of the December 4, 1975 Agreement, deprived Claimants of work to which they were contractually entitled with respect to the above referred to derailment.
2. That Carrier be ordered to compensate Claimants herein for their losses resulting account the herein named multiple violations of the rules of the controlling Agreement as follows:

Carmen, H. W. Plum, J. Delawder, M. L. Nelson, D. L. Ansel, and F. M. Gardine, each, for twenty four (24) hours and fifty (50) minutes pay, at the Carmen's 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.

On February 12, 1980, the Carrier called the Cumberland assigned wrecking

crew as well as at least one outside contractor to perform wrecking service at a two train derailment near Orleans Road (thirty-two miles east of Cumberland). Eleven of the sixteen members of the Cumberland crew responded to the Carrier's call. For a variety of reasons, five members of the crew did not accompany the wrecking outfit to the derailment site.

The Organization brings this claim on behalf of five carmen stationed at Cumberland and contends the Carrier should have called Claimants to fill the places of the absent members of the assigned wrecking crew. The Organization cites Article VII of the December 4, 1975 Agreement to support its position. The Carrier asserts that there are not regularly assigned relief members of the wrecking crew and, thus, it was under no obligation to call Claimants.

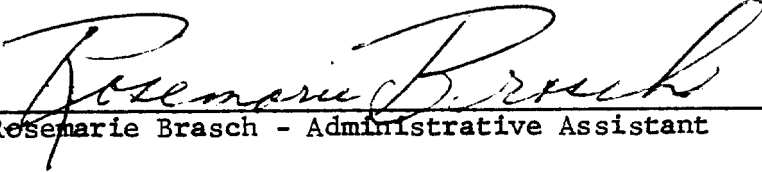
We have recently decided similar disputes between these same parties where we concluded that Article VII does not cover relief wrecking crew carmen inasmuch as they are not designated as members of the Carrier's assigned wrecking crew. Second Division Awards No. 8679 and No. 9095. Based on the reasons more fully set forth in those awards, we must deny this claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of June, 1982.