

A M E N D E D

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD  
SECOND DIVISION

Award No. 9428  
Docket No. 9433  
2-C&NW-CM-'83

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

Parties to Dispute: { Brotherhood Railway Carmen of the United States  
and Canada  
{ Chicago and North Western Transportation Company

Dispute: Claim of Employees:

1. Carmen W. E. Natter, A. A. Mills, and A. V. Bartlett were denied ten hours pay at the overtime rate for time held waiting while on wrecking assignment at Careyhurst, Wyoming on April 1 and 2, 1980.
2. That the Chicago and North Western Transportation Company be ordered to compensate Carmen W. E. Natter, A. A. Mills and A. V. Bartlett each ten hours pay at the overtime rate in accordance with the controlling agreement.

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 were assigned at the Carrier's Chadron, Nebraska facility when, on April 1, 1980 a derailment occurred at Careyhurst, Wyoming -- some 165 miles distance from Chadron. The record is clear that rerailment was to be performed by a private wrecking service (Berg Corporation) and that the Carrier instructed Berg to be at the wreck site at 6:00 a.m. on April 2, 1980 ready to commence work. The Claimants were to assist Berg in the rerailment activities. The Carrier instructed the Claimants to depart Chadron for Careyhurst after their regular duty ended at 3:30 p.m. Such travel took about four (4) hours and did not entail operation of any equipment to be used in rerailment of the cars. Upon their arrival in the Careyhurst area about 8:00 p.m. the Claimants were relieved from duty, furnished food and lodging and instructed to be at the site at 6:00 a.m.

The instant dispute arises out of the Carrier's disinclination to honor requests for compensation initiated by the Claimants for the period from 8:00 p.m. on April 1 to 6:00 a.m. April 2, 1980. The Organization argues that the dispatching of the Claimants to Careyhurst, Wyoming on April 1, 1980 was for the convenience of the Carrier, that the Claimants were available and ready to perform

services on arrival and did not need rest prior to such work. The Organization contends that such travel could have been immediately prior to commencement of rerailling rather than put the Claimants to the inconvenience to themselves to be at the site ten hours prior to the time the Carrier knew it was going to effect such work. The Carrier argues it properly relieved the Claimants from duty in order to ensure them with five hours of rest as required by the Agreement; the Organization contends such requirement applies to time during an extended reraillment operation and not prefatory to such operation.

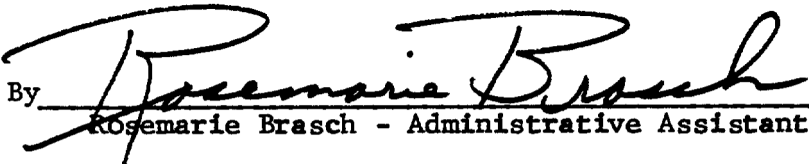
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Claimants are entitled to ten (10) hours compensation at the appropriate rate for the period of time from 8:00 p.m. on April 1, 1980 to 6:00 a.m. April 2, 1980 as a full disposition of this claim.

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 23rd day of March, 1983.