

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 9751
Docket No. 9411
2-L&N-CM-'84

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
(The Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

- 1 (a) That the Carrier violated the terms of the Agreement when the Decoursey, Kentucky Wrecking Crew Members M. Thomas (deceased), A. Feldhaus (deceased), J. H. Tierney, C. C. Jameson and C. D. Rider were relieved of their wrecking assignment by being "taxi cabed" from the wrecking outfit at Oakdale, Kentucky to Decoursey, and the remainder of the Wrecking Crew, Carman E. Hunley accompanied the Wrecking outfit, to Decoursey arriving and was relieved at 4:30 PM, February 2, 1980, and
- (b) Accordingly, the Carrier be ordered to additionally compensate Wrecking Crew Members M. Thomas, A. Feldhaus, J. H. Tierney and C. C. Jameson the same compensation received by Wrecking Crew Member E. Hunley or fourteen hours and fifteen minutes (14'15") each, at the time and one-half rate of pay, and six hours and fifteen minutes (6'15") at the time and one-half rate of pay in favor Carman C. D. Rider.
- 2 (a) That the Carrier violated the terms of the Agreement when Decoursey, Kentucky Wrecking Crew Members H. Stidham, R. F. Johnson and R. W. Barnett were relieved of their wrecking assignment by being "taxi cabed" from the wrecking outfit at Yellowrock, Kentucky to Decoursey and the remainder of the Wrecking Crew, Carmen A. Feldhaus and J. H. Tierney accompanied the Wrecking outfit to Decoursey arriving and was relieved at 7:00 AM, February 4, 1980, and
- (b) Accordingly, the Carrier be ordered to additionally compensate Wrecking Crew Members H. Stidham, R. F. Johnson and R. W. Barnett, the same compensation received by Wrecking Crew Members A. Feldhaus and J. H. Tierney or seven (7) hours each, at the time and one-half rate of pay.

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 employees involved in this dispute are respectively carrier and employees 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 were given due notice of hearing thereon.

Issue (1): On January 31, 1980 the wrecking outfit and crew headquartered at Decoursey, Kentucky was called to a derailment at Oakdale, Tennessee. The wrecker/crew departed at 10:50 p.m. on that date and arrived at Oakdale at 9:00 a.m. on February 1, 1980. The derailment was cleared at 10:50 p.m. on that date and five (5) crew members (Thomas, Feldhaus, Tierney, Jameson and Rider) were directed to take a taxi back to Decoursey; they did so arriving at 2:15 a.m. on February 2, 1980 -- a Saturday. Carman Hunley -- the remaining member of the wrecking crew (who was acting wrecking engineer) -- was instructed to accompany the wrecking outfit back to Decoursey; he did so and arrived at either 3:30 (per the Carrier) or 4:30 p.m. (per the Organization) on that Saturday. Claims were made for Thomas, Feldhaus, Tierney and Jameson for the elapsed time between their arrival at Decoursey (2:15 a.m.) and that of the wrecking outfit and crew member (Hunley) at 4:30 p.m. Carman Rider was scheduled to work first shift on February 2, 1980 and thus the claim on his behalf was less - at six hours and 15 minutes.

Issue (2): A wrecking crew of somewhat different composition was dispatched with the Decoursey wrecking outfit to a derailment at Yellowrock, Kentucky on February 3, 1980; it departed Decoursey at 2:30 a.m. and arrived Yellowrock at 9:15 a.m. The wrecking activities were complete by 6:30 p.m. on February 4, 1980 at which time the Claimants herein -- Carmen Stidham, Johnson, Barnett and Hopkins were instructed to return to Decoursey by taxi; they did so, arriving at 12:00 midnight and were relieved from duty. Carmen Feldhaus and Tierney returned to Decoursey with the wrecking outfit, arriving at 7:00 a.m. on February 5, 1980. Claims were initiated on behalf of crew members Stidham, Johnson and Barnett for the seven hours of time it took the wrecking outfit and crew members Tierney and Feldhaus to return to Decoursey after their earlier arrival at midnight on February 4, 1980.

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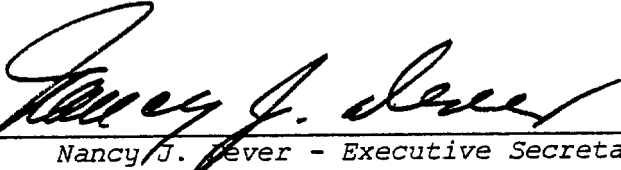
We find the fact situation here to be sufficiently similar to Awards 9749 and 9750 between these same parties before this same Board to conclude that the Award here should follow the same rationale: Rule 108 is properly interpreted to require compensation for the regularly assigned members of the wrecking teams to be compensated for the time they were not permitted to accompany the wrecking outfit on its return to Decoursey.

A W A R D

Claims are affirmed as set out in the Opinion; see Award 9749 and Award 9750 for a fuller development of the rationale applicable to this case.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST:


Nancy J. Lever - Executive Secretary

Dated at Chicago, Illinois this 4th day of January 1984.