

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 9762
Docket No. 8898
2-L&N-CM-'84

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
(Louisville and Nashville Railroad Company

Dispute: Claim of Employees:

1. (a) That Carman Bruce Bland, Nashville Tennessee was improperly relieved from the Radnor (Nashville) Wrecking Outfit at McEwen, Tennessee at 6:00 AM, August 31, 1978, and returned to Nashville, Tennessee and he was not allowed to complete the Wrecking assignment along with the other members of the Wrecking Crew, who returned to Nashville and the crew was relieved at 10:00 AM, September 13, 1978,
- (b) That when Carman Bland was improperly relieved at 6:00, August 31, 1978, he was relieved from all duties until 7:00 AM, September 2, 1978.
2. (a) That Carman Bruce Bland be compensated eight (8) hours at straight time rate for his being relieved from service August 31, 1978,
- (b) That Carman Bruce Bland be compensated for all overtime that he would have earned had he been allowed to complete the wrecking assignment as follows:

August 31, 1978	1 hour	6:00 AM, to 7:00 AM
August 31, 1978	4 hours	3:00 PM, to 7:00 PM
Sept. 1, 1978	1 hour	6:00 AM, to 7:00 AM
Sept. 1, 1978	9 hours	3:00 PM, to 12:00 PM
Sept. 2, 1978	4 hours	12:01 AM, to 4:00 AM
Sept. 2, 1978	10 hours	10:00 AM, to 8:00 PM
Sept. 3, 1978	11 hours	7:00 AM, to 6:00 PM
Sept. 4, 1978	5 hours	3:00 PM, to 8:00 PM
Sept. 5, 1978	5 hours	3:00 PM, to 8:00 PM
Sept. 6, 1978	5 hours	3:00 PM, to 8:00 PM
Sept. 7, 1978	5 hours	3:00 PM, to 8:00 PM
Sept. 8, 1978	4 hours	3:00 PM, to 7:00 PM
Sept. 9, 1978	13 hours	7:00 AM, to 8:00 PM
Sept. 10, 1978	13 hours	7:00 AM, to 8:00 PM
Sept. 11, 1978	7 hours	3:00 PM, to 10:00 PM
Sept. 12, 1978	9 hours	3:00 PM, to 12:00 PM
Sept. 13, 1978	7 hours	12:01 AM, to 7:00 AM

TOTAL 113 hours

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence finds that:

The carrier or carriers and the employee 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 waived right of appearance at hearing thereon.

The Claimant was assigned to a wrecking crew commencing 6:00 p.m., August 28, 1978. After completion of wrecking duties on August 30, the crew, including the Claimant, was relieved for rest at 3:00 p.m. Thereafter, the facts of record show that the Claimant became engaged in an altercation with a tavern owner. On the following day, the tavern owner came to the wrecker site and made, according to the Carrier, "threatening remarks in the presence of L&N employees".

Carrier supervision at the site determined at this point to relieve the Claimant of duty with the wrecking crew, returning him to his regular assignment. The Organization argues that the Claimant was improperly relieved of duty and claims pay for time not worked on August 31, as well as for overtime worked by the wrecker crew thereafter.

The Carrier states that the Claimant was relieved from the wrecker crew for his own safety as well as for the safety of other members of the wrecker crew. The Organization disputes the degree of danger in an alleged threat by the tavern owner and also points out that the activities of the Claimant on the evening of August 30 occurred after his relief from active duty for the Carrier.

Under the circumstances, the Board does not fault the precaution taken by the Carrier in returning the Claimant to his regular assignment. While the form of "rest" taken by an employee need not follow a specific pattern, such period does not give sanction to the type of activity in which the Claimant became involved. It is sufficient that the Carrier perceived endangerment of the Claimant and the crew as a result. The Board finds no basis to interfere with the Carrier's judgment in this respect.

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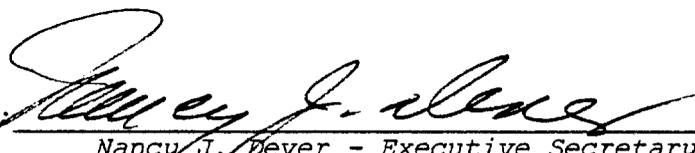
Further, as noted by the Carrier, the Organization cited no rule violation in the progressing of the dispute on the property.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois this 18th day of January 1984.