

The Second Division consisted of the regular members and in addition Referee Elliott H. Goldstein when award was rendered.

(Brotherhood Railway Carmen of the United States
(and Canada
Parties to Dispute: (
(Seaboard System Railroad

Dispute: Claim of Employees:

1. That the Seaboard System Railroad Company, hereinafter referred to as the Carrier, violated the controlling Agreement, particularly but not limited to Rules 107, 30(a), and Appendix C, Article III, when on October 2, 1984, they used other than Carmen to clean up a derailment at Shelborn, Indiana.

2. And accordingly, the Carrier should be ordered to additionally compensate Carmen H. Hale, H. Jones, C. T. Hicks, and R. Woolsey, hereinafter referred to as the Claimants, in the amount of:

H. Hale - 8 hours overtime
C. T. Hicks - 3 hours overtime and 5 hours straight time
H. Jones - 3 hours overtime and 5 hours straight time
R. Woolsey - 3 hours overtime and 5 hours straight time

as the result of said violation.

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 employes 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 October 2, 1984, a Claims Agent and three employees of an outside salvage firm were utilized to pick up scrap metal at a derailment site near Shelborn, Indiana between the hours of 3:00 and 6:00 p.m. Claimants are all Carmen employed by the Carrier at its Howell Shops in Evansville, Indiana; all are assigned to the Miscellaneous Overtime Board.

According to the Organization, until October 1, 1984, Carrier's Hoesch crew had been assisting the wrecker crew in clearing the derailment by the use of a truck with a hydraulic boom. However, they were relieved on October 1, 1984, and Midwest Commodities employees were used to pick up and load the remaining scrap parts of the freight cars on October 2, 1984.

The Organization maintains that the Carrier violated the Agreement by using Midwest Commodities employees to assist in the clearing of the derailment. In particular, the Organization refers the Board to Rule 107(a), which states:

"107(a). Regularly assigned wrecking crews ... will be composed of carmen and will be paid for such service under Rule 11."

To the Organization, the foregoing clearly establishes that wrecking work belongs to Carmen. Moreover, where, as here, scrap parts of freight cars were picked up and loaded, the work was wrecking work reserved to Carmen. Thus, the Organization submits that when the Hoesch crew and equipment were released, additional forces should have been called from the Miscellaneous Overtime Board.

Carrier asserts that the work of picking up scrap metal on line of road is not reserved to Carmen. We agree. From the evidence adduced on this record, it is clear that both the equipment and employees of Midwest Commodities were retained exclusively for salvage operations. Their use to pick up scrap metal at the derailment site did not infringe upon the rights of the wrecker crew, all of whom performed duties consistent with their assignments. At no time was there any judgment made by any employees of the Carrier or the contractor regarding possible salvage of parts for reuse, but rather all scrap metal was indiscriminately collected for disposal at scrap value. Based on these facts, we must conclude that the retention of a contractor for the performance of salvage operations did not constitute wrecker service and did not otherwise infringe upon the rights of the Claimants. Accordingly, we must rule to deny the Claim.

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 25th day of November 1987.