

The Second Division consisted of the regular members and in addition Referee Robert W. McAllister when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen of the United States and Canada
(Soo Line Railroad Company

STATEMENT OF CLAIM:

1. That under the current agreement the Soo Line Railroad Company violated Rules 10 and 98, when the Soo Line Railroad Company improperly relieved Carmen G. Erickson, D. Perish, J. Coldren and M. Sjoberg, regular assigned wrecking crew members at Shoreham Shops, Minneapolis, Minnesota from 5:30 P.M. January 19, 1983 to 7:00 A.M. January 20, 1983, after completing wrecking assignment at Bowlus, Minnesota and waiting to depart for a second assignment at Genola, Minnesota.

2. That accordingly, the Soo Line Railroad Company be ordered to additionally compensate the aforementioned Carmen for thirteen (13) and one half hours each at the rate of time and one-half for time waiting between assignments from 5:30 P.M. January 19, 1983 to 7:00 A.M. January 20, 1983.

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 four Claimants are wrecker crewmen assigned to the Carrier's Shoreham Shops in Minneapolis, Minnesota. The Claimants worked at Bowlus, Minnesota, on January 18 and 19, 1983, as ground crew for an outside contractor and loaded wrecked car bodies into flat cars in addition to clearing up the site. The record establishes the Claimants tied up at 5:30 P.M. at Bowlus upon completion of the clearing of the derailment site. Thereafter, the Claimants were lodged at Little Falls, Minnesota and required to report to another derailment site at Genola at 7:00 A.M.

The Organization argues that, by failing to compensate the Claimants from 5:30 P.M. to 7:00 A.M., the Carrier violated the applicable Agreement rules relating to emergency road service. Rule 10, Paragraph 5 reads:

"Wrecking service employees will be paid under this rule, except that all time working, waiting, or traveling on rest days and holidays will be paid for at rate of time and one-half, and all time working, waiting, or traveling, on assigned work days after the recognized straight time hours at home station will also be paid for at rate of time and one-half."

The Organization asserts that Rule 10, Paragraph 3 is not applicable to this claim because the Bowlus wreck assignment was completed, and the crew was held over for the Carrier's convenience. Furthermore, the Organization contends the Carrier failed to show the Claimants were in need of rest.

The Carrier contends the Claimants were properly relieved. It argues that Rule 10, Paragraph 3, authorizes the Carrier to relieve men from duty for five or more hours and permit them to go to bed.

In contending the Claimants were held over for the convenience of the Carrier, the Organization cites Second Division Awards 9428 and 8434. In Award 9428, the Claimants were dispatched to assist in rerailment activities at the end of their regular tour of duty at 3:30 P.M. Upon their arrival at the derailment site 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 Board sustained the claim for ten (10) hours of compensation reasoning that relief for a minimum of five hours of rest applies to time during an extended rerailment operation "and not prefatory to such operation." Award 8434 with a slightly different fact situation is in line with the reasoning of Award 9428.

The parties herein were involved in an identical claim by the assigned wrecker engineer of the Shoreham Shops wrecking crew. That Claimant was called to the derailment work at Bowlus and Genola on January 18, 1983. He refused because he would have to work as a groundman. The second portion of that claim was for the identical thirteen and one-half hours time and one-half claim presented by this case; i.e., from 5:30 P.M. on January 19 to 7:00 A.M., January 20, 1983. In dismissing the claim in Award 10995, the Board stated in pertinent part:

"The final issue to be addressed is whether the time spent by the crew during the evening is waiting time as provided under Rule 10, Paragraph 5, relief time. Under Rule 10, Paragraph 5, waiting time is required to be paid 'at rate of time and one-half.' There is no Rule of the Agreement

that prohibits the Carrier from relieving a Wrecker from duty for rest and allowing such Wrecker to go to bed while en route to the work location. In the judgment of the Board, the Claimants were relieved for the purpose of taking a rest after having worked 10.5 hours at Bowlus. As stated in Second Division Award No. 1991:

'Part 2 of the claim is without merit. Rule 10 applies to wrecking service employees insofar as pay is concerned, except that such employees are entitled to pay at the time and one-half rate under certain conditions. The pertinent part of Rule 10 is that which permits the Carrier to relieve a man from duty and permits him to go to bed for five (5) or more hours. Such relief time is not to be paid for.'

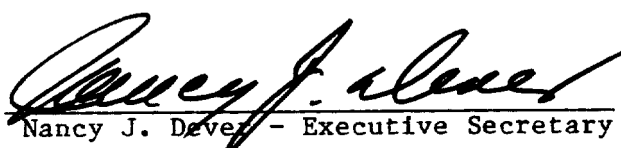
The Board reaffirms its decision in the above Award and further concludes the reasoning set forth is distinctly distinguishable from the facts presented in Second Division Awards 9428 and 8434.

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 15th day of June 1988.