

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISIONAward No. 12998
Docket No. 12906
96-2-94-2-52

The Second Division consisted of the regular members and in addition Referee Marty E. Zusman when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen Division/TCU
(
(Southern Pacific Transportation Company
((Western Lines)

STATEMENT OF CLAIM:

"Claim of the Committee of the Union that:

(1) That the Southern Pacific Transportation Company (Western Lines) violated the controlling Agreement effective April 16, 1942, as subsequently amended, Rules 15 and 111(b), when they failed to call wrecking service at a derailment at Yuma, Arizona outside the yard limits.

(2) That accordingly the Southern Pacific Transportation Company (Western Lines) be ordered to additionally compensate Carmen E. P. McDonald and M. H. Orona six and one half (6 ½) hours for February 25, 1992, and thirteen and one half (13 ½) hours for February 26, 1992 at the applicable time and one half rate of pay for 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 employee or employees involved in this dispute are respectively carrier and employee 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 Organization alleges Rule violation wherein the Carrier failed to call the relief outfit crew from Tucson to reraill Locomotive SP 6842. The Organization argues that the Carrier should have utilized the entire Tucson relief outfit crew, but instead utilized only two crew members and then assigned two other Carmen from Yuma to the rerailling. Accordingly, the Organization requests compensation for the two Claimants who were regularly assigned to the relief outfit crew, but were not called to reraill the locomotive. It supports its position by noting that the Pettibone mobile crane was utilized in the rerailling.

The Carrier denied any Rule violation as the work was "emergency road work" and not "relief outfit" work. The locomotive derailling was at a location which was not essential, as it did not block main line movement. The Carrier asserts therefore that it was not an emergency, did not come under Rule 15, and the Carrier was not required to assign the relief outfit crew. The Carrier further argues that although the Pettibone mobile crane was used, that usage did not make it relief outfit work.

The Board has carefully studied the Rules as they are related to the instant facts and proof. Under these circumstances the Board finds no Rule violation. The Board finds no language in Rule 111(b), Award support, or probative evidence obligating Carrier to call the entire relief outfit. Rule 111(b) states that:

"When relief outfit is called for derailments or accidents, outside of yard limits at home point, the regularly assigned crew, if available, will accompany the outfit."

The Organization's primary argument is that since this was a derailment and the Pettibone mobile crane was used, then this required the relief outfit to be called. The Board finds no language supporting that interpretation. There is no evidence in this record that the relief outfit was called by the Carrier. In fact, they were not. Rule 111(b) comes into effect only when they are called. There is no evidence presented on property for this Board to conclude that the use of the Pettibone crane to reraill the locomotive thereby defines the work as wrecking service, and therefore requires the relief outfit to be called under the Rule, supra. Nor is there sufficient probative evidence of practice on this property to support the Organization's claim. Accordingly, the claim must be denied (Second Division Awards 10258, 11988).

AWARD

Claim denied.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 9th day of April 1996.