

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13450

Docket No. 13350

99-2-98-2-37

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

**(Brotherhood Railway Carmen, Division of Transportation
(Communications International Union**

PARTIES TO DISPUTE: (

(The Springfield Terminal Railway Company

STATEMENT OF CLAIM:

- "1. That the Springfield Terminal Railway Company violated the terms of our current agreement, in particular Rule 30 when they arbitrarily and improperly assigned or otherwise ordered a non-wreck crew member to perform wrecking service instead of the regular assigned and available wreck crew member, William M. Dostie, on March 5, 1997 at South Portland, ME.**
- 2. That, accordingly, the Springfield Terminal Railway Company be ordered to compensate William M. Dostie in the amount of 4 hours and 45 minutes pay at the overtime rate. This is the amount he would have earned had the carrier properly utilized the regularly assigned wreck crew."**

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 were given due notice of hearing thereon.

Claimant is an assigned member of the Waterville Wreck Crew who does not have a Class B CDL. On the claim date, five cars derailed at Rigby, and three employees were sent to the site to assist an outside contractor in rerailing the five cars.

All three employees sent had Class B CDL's, but one was not an assigned member of the wrecking crew. His use was in lieu of an assigned wreck crew member who had recently returned to service after being off for medical reasons. This is the basis for the claim; Claimant is an assigned member.

When the Carrier stated they believed it necessary to have three employees with Class B CDL's report to the derailment, their selection was challenged by the Organization. Organization argues that assignment to the wreck crew is jointly done by the parties. There is no contractual basis for the Carrier to substitute another employee on the wreck crew unilaterally, we concur. The claim will be sustained, but only for the straight time rate.

AWARD

Claim sustained in accordance with the Findings.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) be made. The Carrier is ordered to make the Award effective on or before 30 days following the postmark date the Award is transmitted to the parties.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 25th day of August 1999.