

Award No. 1008

Docket No. 939

2-Erie-CM-'44

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 100, RAILWAY EMPLOYES'
DEPARTMENT, A. F. OF L. (CARMEN)**

ERIE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1—That on February 17, 1943, at Jersey City, New Jersey, the carrier violated the controlling agreement and Rule 84 (f) thereof in the rerailling of Engine 112 with at least four roundhouse employees in addition to one carman.

2—That for and in consideration of the aforesaid violation Carmen C. Rainome, Joseph Stankiewicz, W. Kienry and W. Pietruszka, be compensated from 3:25 A. M. to 8:00 A. M. Wednesday, February 17, 1943, at the time and one-half rate.

EMPLOYES' STATEMENT OF FACTS: At the roundhouse, Jersey City, New Jersey, about 3:25 A. M. Wednesday, February 17, 1943, engine 112 was derailed on the turntable. To clear the turntable, the engine was pulled clear of the turntable and in doing so the engine was badly derailed.

From 3:25 A. M. to 8:00 A. M. at least one hostler boss, one hostler, one machinist, one machinist helper and one carman worked at rerailling this engine. The rerailling was effectuated by the day force at 11:00 A. M.

The regular hours of the claimants are from 8:00 A. M. to 4:00 P. M. They were subject to call and available for this service.

The controlling agreement is dated effective August 1, 1942.

POSITION OF EMPLOYES: It is the contention of the employees that when other than carmen were assigned to assist in the rerailling of this engine, Rule 84 (f) was violated.

Rule 84 (f); When derailments or wrecks occur inside of yard or switching limits, requiring assistance to reraill or clear, a sufficient number of carmen will be called to assist.

In pulling the engine clear of the turntable the tender became disconnected. To effectuate the rerailling of the engine and tender it was necessary to use jacks and blocking also other tools used by wrecking crews.

The wrecking crew is stationed close to this derailment and the claimants were the available carmen at that hour of the day, being subject to call as members of the wrecking crew.

road Company and the employes of the mechanical department as represented by Erie System Federation 100, requires the calling of members of the wrecking crew except where it is necessary to have assistance from the wrecking crew and there is no indication here that such assistance was needed.

3. There is no showing here that any rules were violated or that Claimants Rainome, Stankiewsez, Kienry or Pietruszka were needed to assist. The roundhouse forces all in accord with customary practice rerailed the engine which had been derailed in their engine yard.

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 employe 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.

The parties to said dispute waived right of appearance at hearing thereon.

The evidence of record supports the conclusion that in the circumstances of this proceeding Rule 84 (f) of the controlling agreement was violated, as claimed, in connection with the rerailment of Engine No. 112 on February 17, 1943, and that the claimants named are entitled to compensation, at the overtime rate, for the work performed in this rerailment, between 3:25 A. M. and 8:00 A. M., by employes other than carmen.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: J. L. Mindling
Secretary

Dated at Chicago, Illinois, this 22nd day of March, 1944.