Award No. 1557
Docket No. 1468
2-ACL-CM-'52

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

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

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 42, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. (Carmen)

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: That under the controlling agreement, and specifically Rule 6(a) thereof, the Carrier improperly compensated members of the Manchester, Georgia wrecking crew when on road assignment July 6th and 7, 1950.

That the Carrier be ordered to compensate additionally the employes involved as follows:

Roy Collier from 8 P. M., July 6th to 7 A. M., July 7th; eleven hours or $28.59

Homer Moran from 7:45 P. M., July 6th to 6 A. M., July 7th; ten hours and fifteen minutes or $26.63

Will Lumpkin from 10 P. M., July 6th to 5 A. M., July 7th; seven hours or $12.20

EMPLOYES' STATEMENT OF FACTS: On the morning of July 6, 1950, the wreck crew equipment, along with four (4) cars of large concrete culvert pipe, was placed in local freight train No. 506 which was called to leave Manchester at 8:15 A. M. Accompanying the wreck train were three (3) members of the regularly assigned wreck crew, Roy Collier, Homer Moran, firemen, and Will Lumpkin, cook, hereinafter referred to as the claimants.

Local No. 506 operates daily between Manchester, Georgia and Lineville, Alabama, a distance of 94 miles. The wreck train equipment, culvert pipe and wreck train personnel were destined for Shocco, Alabama which is 32 miles beyond Lineville, the terminal point of local No. 506.

In addition to the wreck train equipment and the four (4) cars of culvert pipe—company material—local No. 506 handled the usual number of revenue cars servicing intervening local stations between Manchester, Georgia and Lineville, Alabama. The train arrived at Lineville at 4:52 P. M. At 6:30 P. M., a work extra picked up wreck train, wreck train personnel and the culvert pipe and moved it to Talladega, Alabama, arriving at Talladega at 7:45 P. M.; here the wreck train tied up for the night. At 7:00 A. M., July 7,

Mr. Cooper, superintendent motive power, which is submitted herewith and identified as carrier's Exhibit B. In progressing the claim to Mr. Hawthorne, general superintendent motive power and equipment, Mr. Winters, general chairman, in his letter October 3, 1950, made claim "for adjusted compensation for Manchester wreck crew while on road duty as outlined in our letter of September 7", copy of this letter being shown as carrier's Exhibit C. Whereas, when presenting the claim to this office on final appeal, Mr. Winters, in letter dated May 10, 1951, listed it as "appropriate compensation for wrecking service employes at Manchester, Ga., when called to perform road duty away from home point." (Underscoring supplied). This letter is submitted herewith and identified as carrier's Exhibit D.

As stated in carrier's statement of facts, this heavy crane, by reason of being the nearest machine available to perform the work needed, was turned over to the roadway department for its use and thereby became a roadway machine. Carrier's agreement with its mechanical employes does not grant exclusive right to carmen to operate this crane, but in this instance they were used and benefited by the additional compensation received.

These mechanical employes were compensated the same as any other mechanical employes used in emergency service on the road, and in this instance it appears that simply because they were being used for unloading this heavy concrete pipe for the roadway department the organization feels and contends they were a wrecking crew engaged in wrecking service and should, therefore, be compensated according to Rule 6(a) and have not given consideration to paragraph (b) of that rule. Both paragraphs are involved in the payment of wrecking service employes.

Insofar as the actual compensation of the employes involved is concerned, the carrier feels there is no more justification in the organization's claim for compensation on basis they were being used in wrecker service than there was in their original claim that the machine should have been accompanied by the full wrecking crew. It must be borne in mind the claim as presented to your Board has been amended, eliminating request that the full wrecking crew should have accompanied the machine. This elimination and amendment of the claim are indicative that the organization realizes wrecking service was not involved and that these employes were in the same category as any other mechanical employe sent individually or collectively from his headquarters to some point on the road to perform emergency road service.

The respondent carrier reserves the right, if and when it is furnished with the ex parte petition filed by the petitioner in this case, which it has not seen, to make such further answer and defense as it may deem necessary and proper in relation to all allegations and claims as may have been advanced by the petitioner in such petition and which have not been answered in this, its initial answer.

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 were given due notice of hearing thereon.

The carmen of System Federation No. 42 contend carrier failed to properly compensate the members of its Manchester, Georgia, wrecking crew for July 6 and 7, 1950, while on road assignment, in accordance with Rule 6 (a) of their controlling agreement and ask that it be required to do so.

When claimants were called to go from Manchester, Georgia, where they were regularly assigned, to Shocco, Alabama, they engaged in "emergency road service" within the intent and meaning of Rule 6(a) of the parties' controlling agreement. Section (a) of Rule 6 provides employes so engaged will be paid from the time called to leave home station, until they return, for all services rendered, including all time waiting or traveling.

However, section (b) of Rule 6 provides that if an employe is relieved from duty during the time he is on the road, and permitted to go to bed for five hours or more, such relief will not be paid for. This exception is not intended as a means for carrier to escape its responsibility under 6 (a) but does have application in proper cases. A proper case would be when, because of necessity, the employe at any time needs a rest or when the relief is given at a time when the employe would normally rest and facilities for that purpose are available. This, to fit the employe for the continuation of the tasks to which he is assigned. The latter of the two is the situation here. In relieving these claimants from duty and giving them an opportunity to rest at the time it did, with facilities available for them to do so, the carrier's actions were within a situation contemplated by the provisions of Section (b) of Rule 6. Consequently, carrier is not obligated to pay for the time these claimants were properly relieved from duty.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 9th day of July, 1952.