

Award No. 1742
Docket No. 1661
2-LT-USWA-CIO-'54

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

PARTIES TO DISPUTE:

THE UNITED STEEL WORKERS OF AMERICA, C.I.O.

THE LAKE TERMINAL RAILROAD COMPANY

CLAIM OF EMPLOYEES: These claims are for six (6) hours pay for Car Inspectors Carl Novasad, W. Skidmore, Ray Kennedy and F. A. Ziegler, because of Assistant Trainmaster Wallace re-railing Car No. X209 on Track No. 100 with Engine No. 1003 at 4:45 P.M. on February 10, 1953.

EMPLOYEES' STATEMENT OF FACTS: The facts are as stated above. In a letter addressed to M. A. Melia, union staff representative, dated June 12, 1953, the company wrote as follows: "Upon investigation of these claims, we find that a wreck crew was called on the day in question, and upon arrival worked on car number X209."

POSITION OF EMPLOYEES: In this letter there is no denial that Assistant Trainmaster Wallace re-railed the car. It is true the wrecking crew worked on the same car after Wallace had re-railed it (the wrecking crew had to jack up the car and put it back on center) because Wallace set the car off center. So here we have a situation where damage was done to this car because of the action of a company supervisor. It is no coincidence that this same Mr. Wallace figures in Cases No. 501, 502, and 503 now before this Honorable Board. In innumerable claims made by the employees during the past years, most of them have been against Mr. Wallace.

Therefore the company is in violation of Article XIII, Section 4, Rule 1 of the agreement, which reads: "Employees in the Car Department shall consist of Carmen (inspectors and repairmen) Apprentices, other craftsmen and laborers, and only Carmen and Apprentices shall do the work generally recognized as Carmen's work."

The company is also in violation of Paragraph 4 (Definitions) which reads: "Supervisor; Any individual employee of the Company engaged directly or indirectly in the capacity of supervising and directing the working forces and who does no manual work except in emergencies or for the purpose of demonstration."

The company has made no claim that either of these two contingencies were present in the instant case.

Therefore, we ask this Honorable Board to rule that the Lake Terminal Railroad Company was in violation of the agreement, and the claims as herein set forth be paid.

CARRIER'S STATEMENT OF FACTS: On February 10, 1953 Car X209 was derailed. A wreck crew had been called and during the time the men were enroute to the property after receiving the call, Assistant Trainmaster Wm. Wallace with the assistance of a crew, proceeded to reraill the car. Since the car was off center there was additional work to be performed which the wreck crew handled.

POSITION OF CARRIER: These claims involve rerailling of a car by other than car repair department employes, which is not the exclusive work of employes of the car repair department. Further, in this case a wreck crew had been called and worked on the car, the claimants being the members of the wreck crew and, therefore, we can see no justification for paying them for six hours which they are claiming in addition to the six hours for which they have already been compensated when given a call in accordance with Section 11 of Article III of the current agreement.

For the reasons herein outlined, the carrier submits that the claim should be denied.

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 record disclosed that a wrecking crew was called and paid six (6) hours for the call. The fact that the train and engine crew, under the direction of Assistant Trainmaster Wallace, was able, without assistance, to reraill Car X209 prior to arrival of the wrecking crew was not a violation of the controlling agreement.

AWARD

Claim of employes denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 15th day of February, 1954.