

Award No. 1744
Docket No. 1660
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: The above claims for six (6) hours pay are made on behalf of Car Inspectors Ray Theiss, F. A. Ziegler, J. Burger, and Carl Novasad, because of Yardmaster Peters re-railing cars X643 and X653 at No. 7 Switch on March 17th 1953, at 7:00 A. M.

EMPLOYEES' STATEMENT OF FACTS: The facts are as given above. In a letter addressed to M. A. Melia, Union Staff Representative, dated June 12, 1953, the company wrote as follows: "Our investigation reveals that the cars in question were re-railed by Wallace and Peters, however, since the cars were re-railed on property belonging to National Tube Division, United States Steel Corporation, there is no basis for the claims. For this reason the claims are denied."

POSITION OF EMPLOYEES: The company is definitely 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, helpers, and only Carmen and Apprentices shall do 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 Lake Terminal Railroad Company services these tracks for National Tube Division Transportation Department.

Car repair dept. wrecking crews and other employes re-rail and repair cars on National Tube Division every day in the year.

Finally, we call to the attention of the Honorable Board four claims, which were settled by the company and paid on August 31, 1953.

These claims were numbered 115—116—117—118, on account of Yardmaster Adamson re-railing Engine 1008 on Track No. 168, a National Tube Division track.

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

CARRIER'S STATEMENT OF FACTS: Cars X643 and X653 were derailed on National Tube Division, United States Steel Corporation track at 237 switch. Assistant Trainmaster Wallace and Yardmaster Peters, with the assistance of a crew, rerailed the cars.

POSITION OF CARRIER: The cars in question were derailed on property not belonging to the carrier. It is the position of the carrier that locomotives or cars rerailed on property not owned by the carrier is work not belonging exclusively to the Lake Terminal car repair forces. In the event the National Tube employees had rerailed the cars we are of the opinion the time claims would not have been presented.

It is, therefore, respectively submitted that the claims be denied and the carrier requests that the Board so decide.

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.

The parties to said dispute were given due notice of hearing thereon.

The record reveals that under the direction of Assistant Trainmaster Wallace and Yardmaster Peters of the Lake Terminal Railroad, the train and engine crews, without assistance, rerailed cars X643 and X653 on the National Tube Division tracks. Under these circumstances, not calling the wrecking crew was not a violation of the controlling agreement.

AWARD

Claim of employees denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 24th day of February, 1954.