Award No. 1757

Docket No. 1677

2-IC-CM-'54

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Edward F. Carter when the award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 99, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. (Carmen)

ILLINOIS CENTRAL RAILROAD

DISPUTE: CLAIM OF EMPLOYES: (1) That under the current agreement other than Carmen were improperly used to rerail Engine 3711 on December 12, 1951.

(2) That accordingly the Carrier be ordered to additionally compensate the following named Carmen:

C. O. Watson
P. D. Zeigler
G. C. Arnold
T. C. Byrd

each in the number of hours' pay at the time and one-half rate they are entitled to as a result of other than Carmen being used to rerail engine 3711 on December 12, 1951.

EMPLOYES' STATEMENT OF FACTS: The carrier maintains at Baton Rouge, Louisiana, in the mechanical department besides a roundhouse force, a car repair track and a train yard force. A small wrecking derrick is also maintained.

On December 12, 1951, engine No. 3711 became derailed at Woodville, Mississippi, at approximately 6:30 A. M., 59 miles from Baton Rouge, Louisiana. A section foreman and ten section men with lifting jacks and blocks were called and used to rerail this engine between the hours of 7:00 A. M. and 11:00 A. M., which is affirmed by statements signed by Conductor A. V. Holmes and Engineer W. M. Smith, submitted herewith and identified as Exhibits A and B.

Submitted herewith as carrier's Exhibit A is copy of report of accident submitted by Mr. A. V. Holmes, conductor of train 741, engine 3711, concerning the derailment.

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.

On December 12, 1951, Engine No. 3711 became derailed at Woodville, Mississippi, a distance of 59 miles from Baton Rouge, Louisiana, where a wrecking derrick is maintained. A section foreman and ten section men were called and used to rerail the engine. Carmen at Baton Rouge claim that they should have been called for the work.

The rules applicable to the situation are:

> "Regular assigned wrecking crews, excluding engineers, will be composed of carmen and will be paid for such service under Rule 12.
>
> "Meals and lodging will be provided by the company while crews are on duty in wrecking service.
>
> "When needed, men of any class may be taken as additional members of wrecking crews to perform duties consistent with their classification." (Rule 130, Current Agreement.)
>
> "When wrecking crews are called for wrecks or derailments outside of yard limits, the regularly assigned crew will accompany the outfit. For wrecks or derailments within yard limits, sufficient carmen will be called to perform the work." (Rule 131, Current Agreement.)

We point out that Rules 130 and 131 give carmen the right to man wrecking crews. A wrecking crew within the meaning of these two rules refers to employes assigned to a wreck train. These rules do not purport to give carmen the exclusive right to do all wreck and derailment work. It is only when a wrecker is required that all wrecking or derailment work is assigned to carmen. In accordance with these rules, when a derailment occurs outside of yard limits and the services of a wrecker are not required, the wrecking crew (Carmen) do not have the exclusive right to perform the work. Awards 1482, 1322.

In Award 1322, involving a dispute on the same carrier as in the case before us, the same issue appears to have been decided. We then said: "The work involved in the instant case is not expressly covered in the scope rule, Rule 127. The claim must rest upon the concluding phrase, i.e., practice, in respect to which carmen jurisdiction in wrecking and derailment work is recognized only in a general sense, subject, we believe, to practical exceptions such as that made here. The word 'when' in the sentence from Rule 131, providing: 'When wrecking crews are called for wrecks or derailments outside of yard limits, the regularly assigned crew will accompany the outfit' is a conditional word, indicating that the parties contemplated that in some circumstances wrecking crews would not be called to the scene of wrecks and derailments. The placing of a frog or rerailer, under the circumstances of the

case, cannot reasonably be brought within the scope of mechanic's work within the intendment of Rule 33." See also Award 1557.

These awards correctly apply the rules applicable on this carrier. Without burdening this award with too much repetition and detail, we think the applicable rules governing wrecks or derailments outside of yard limits mean as follows: (a) That crews assigned to wreckers or wreck trains, excluding engineers, will be composed of carmen. (b) When a wrecker or wreck train is called for wrecks or derailments outside of yard limits, the regularly assigned crew of carmen are entitled to accompany the outfit. (c) If a derrick, crane or other wrecking equipment operated by employes of another craft is used in lieu of an available wrecker and crew, a violation of the agreement ordinarily exists. (d) When a derailment occurs outside of yard limits and the services of a wrecker are not required, the wrecking crew do not have the exclusive right to perform the work. (e) If a wreck or derailment necessitates the doing of work within the carmen's scope rule, a carman is entitled to perform the work. (f) A train crew may properly rerail a locomotive or car, when the assistance of a wrecker is not required, without encroaching upon the rights of carmen. (g) The use of section foremen, section laborers or other employes to rerail a car or locomotive, when a wrecker is not needed, does not violate the carmen's agreement. (h) Others than carmen may properly rerail locomotives and cars, when a wrecker is not called or needed, by the use of jacks, frogs, rerailers, blocks, and similar expedients, but this does not imply that such employes may invade the work of carmen specified in their Classification of Work Rules.

An application of the foregoing to the facts in the instant case requires a holding that the carrier did not violate the agreement in directing a section foreman and section laborers to rerail the locomotive, it appearing that a wrecker and crew were not called or needed.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 22nd day of April, 1954.