

Award No. 1763
Docket No. 1622
2-P&LE-URRWA, CIO-'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:

**THE UNITED RAILROAD WORKERS OF AMERICA, C. I. O.
THE PITTSBURGH AND LAKE ERIE RAILROAD COMPANY
AND
THE LAKE ERIE AND EASTERN RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYES: 1. That the carrier on March 15, 1952, improperly under the current agreement used machinists at the McKees Rocks, Pa. Roundhouse to reraill engine No. 9403. 2. That accordingly the carrier be ordered to compensate Messrs. Andrew Stecko, Peter Stecko, Joseph Slanina Jr., Metro Novoselski, Paul Estock, Stephen Filipovitz, Mike Vasellini, August Safranek, John Kasprick, John Rasko, John Tutoki and Joseph Martonik in the amount of twenty-one (21) hours each under the current agreement for work performed by the machinist craft.

EMPLOYES' STATEMENT OF FACTS: The carrier maintains a force of carmen, a wrecking outfit and a regular assigned wrecking crew at McKees Rocks, Pa. The wrecking crew consists of the following carmen: Andrew Stecko, Peter Stecko, Joseph Slanina Jr., Metro Novoselski, Paul Estock, Stephen Filipovitz, Mike Vasellini, August Safranek, John Kasprick, John Rasko, John Tutoki and Joseph Martonik.

At McKees Rocks, Pa. in the roundhouse locomotive shop, engine No. 9403 was derailed on March 15, 1952. The carrier ordered the machinists at the roundhouse to reraill the said engine No. 9403. These said machinists used the wreck crews equipment for rerailling and even damaged said equipment. The carmen were available at the time the carrier ordered the machinists to reraill engine No. 9403.

These said machinists could not reraill the engine during their regular tour of duty and were ordered by the carrier to double out to finish the job.

The agreement effective May 1, 1948, is controlling.

POSITION OF EMPLOYES: It is respectfully submitted that in this case the work did belong to the carmen's craft and there is nothing in Rule 29, reading:

"Regularly assigned wrecking crews, including engineers, will be composed of carmen, where sufficient men are available, and will

by its terms, such practices are enforceable to the same extent as the provisions of the contract itself. Awards 2436, 1397, and 1257. We are obliged to say, therefore, that the Carrier could not properly modify or abrogate the practice except by negotiation."

The carrier's position may be summéd up as follows:

1. There is no rule in the agreement which confines the work of rerailling locomotives at engine terminals, exclusively to carmen.
2. It has always been the practice to have locomotives which have been derailed within engine terminals, rerailed by roundhouse forces, unless in the judgment of the roundhouse foreman the wreck train was needed.
3. The employes are bound by their acquiescence to the recognized application of the rules in effect on the carrier's property for many, many years.

It is therefore respectfully submitted that the claim is without merit, and therefore must 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.

On March 15, 1952, an engine was derailed at the roundhouse at McKees Rocks, Pennsylvania. The carrier used machinists and other roundhouse employes to reraill the engine. It took more time than anticipated and second and third trick employes had to be doubled out. They broke two reraillers belonging to the wreck crew which they had used without permission. It is contended that the work belonged to carmen under the provisions of Rule 29, current agreement, which provides:

"Regularly assigned wrecking crews, including engineers, will be composed of carmen, where sufficient men are available, and will be paid for such service under Rule 5. 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."

Under the rule, carmen are entitled to all wreck crew work. It does not assign to carmen the exclusive right to reraill engines and cars where the wreck train has not been called. In addition thereto, the practice for more than thirty years has been to have engines which have been derailed in Engine Terminals rerailed by roundhouse forces, except where a wreck train was needed. The fact that second and third trick employes were doubled out does not change the situation; nor does the fact that reraillers belonging to the wreck crew were used so long as the wreck train was not needed. The rule is, under such an agreement we have here in the absence of a specific rule to the contrary, that the rerailling of locomotives and cars is not the exclusive work of carmen when a wrecker is not called or needed. Award 1482.

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AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 26th day of May, 1954.