

Award No. 2404

Docket No. 2220

2-UP-CM-'57

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

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

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 105, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. (Carmen)**

UNION PACIFIC RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1. That the current agreement was violated when sufficient members of the regularly assigned wrecking crew at Huntington, Oregon were not called to accompany the outfit with its engineer and its fireman when it was sent to perform service in connection with derailment at Homly, Oregon, November 28 and November 29, 1954.

2. That accordingly the Carrier be ordered to compensate the following members of the Huntington wrecking crew:

G. Weitzel	C. M. James
R. L. Watson	B. Anderson
F. G. Poulos	G. H. Closson
S. A. Parks	

in the amount they would have earned had they been called to perform this wrecking service.

EMPLOYEES' STATEMENT OF FACTS: The carrier maintains a wrecking outfit and regularly assigned wrecking crew at Huntington, Oregon. The above mentioned members of the crew (hereinafter referred to as the claimants) are carmen employed on three shifts upon the repair tracks and in the train yards.

On November 28, 1954 the outfit, with both the regularly assigned engineer and fireman, was dispatched for wrecking service in connection with a derailment at Homly, Oregon. The remainder of the assigned crew was not called, but instead, member of a crew regularly assigned to a wrecking outfit stationed at Hinkle, Oregon, were called and used to perform service with the wrecker, engineer and fireman from Huntington. Upon completion of the work involved, the derrick was returned to Huntington, arriving 5:00 A. M., November 30, 1954.

The dispute was handled with carrier officials designated to handle such affairs, who all declined to adjust the matter.

The agreement effective September 1, 1949, as subsequently amended, is controlling.

the Pocatello derrick was too large to be used on the branch line. The Idaho Falls wrecking crew was not used. In that case, claims were filed and progressed to the general superintendent, MP&M, one exactly the same theory and contentions as are presented herein.

The claims were declined by the general superintendent, MP&M, with a position that it was not a rule violation to use the Idaho Falls derrick at Wells or any other point where needed, and that it would not have been consistent to call the crew at Idaho Falls to perform work in a territory normally serviced by the Pocatello crew. That declination was accepted by the organization, and the matter was dropped.

The organization, itself, has thus recognized that neither Rule 138, nor any other rule in the agreement, gives the wrecking crew assigned at any terminal an exclusive right to man any specific derrick outfit. Unless there are other controlling physical factors, the logical and common procedure is to call the crew regularly assigned at the terminal in the territory of the derailment to accompany whatever outfit is used.

The claims presented herein 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.

In our Award No. 2185, involving the same parties, we held "that Rule 138 means that when a wrecking outfit is called out to perform wrecking work, a sufficient number of the regularly assigned wrecking crew must be used to man the outfit". The only factual difference is that here the carrier had a wrecker derrick and crew from Hinkle clearing a derailment when that wrecker derrick broke down. The derrick at Huntington was sent to replace it. The Huntington crew was not called to accompany it but the work was performed by the Hinkle crew.

The carrier contends that it was confronted with an emergency and met it in the best and quickest way possible, by sending out a derrick to replace one broken down so that a wrecking crew on the job could complete its work. That contention cannot be sustained because it appears that the Hinkle crew returned to Hinkle with the disabled wrecker and then were directed to return to the point of the derailment to work with the Huntington wrecker. That re-assignment of the Hinkle crew instead of calling a sufficient number of the regularly assigned wrecking crew to man the Huntington outfit was a violation of Rule 138.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 15th day of March, 1957.