

Award No. 3244
Docket No. 2920
2-AT&SF-CM-'59

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Roscoe G. Hornbeck when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L.—C. I. O. (Carmen)**

**ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
—Western Lines—**

DISPUTE: CLAIM OF EMPLOYEES:

1. That under the current agreement, Carmen R. Shofner, C. A. Frost, R. C. Struble and C. Gilliland were denied their rights to work overtime on June 8, 1956, in connection with rerailing cars at Braman, Oklahoma, and at Hunnewell, Kansas.

2. That accordingly the Carrier be ordered to additionally compensate these employes at the time and one-half rate of pay for the same amount of hours that four (4) carmen were compensated who performed the work.

EMPLOYEES' STATEMENT OF FACTS: Carmen R. Shofner and C. A. Frost, hereinafter referred to as the claimants, are regularly employed, bulletined and assigned as car inspectors at Wellington, Kansas, by The Atchison, Topeka and Santa Fe Railway Company, hereinafter referred to as the carrier, working hours of 12:00 Midnight to 8:00 A. M., work weeks of Friday through Tuesday, rest days of Wednesday and Thursday.

Carmen R. C. Struble and C. Gilliland, hereinafter referred to as claimants, are regularly employed, bulletined and assigned as car inspectors at Wellington, Kansas, by The Atchison, Topeka and Santa Fe Railway Company, hereinafter referred to as the carrier, working hours of 4:00 P. M. to 12:00 Midnight, however, Car Inspector Struble has the work week of Saturday through Wednesday, rest days of Thursday and Friday, and Car Inspector Gilliland has the work week of Tuesday through Saturday, rest days of Sunday and Monday.

In conclusion, carrier asserts that—

1. Overtime resulting from emergency road service is not overtime coming under the provision of Rule 10(b). (Award No. 1819.)
2. Rule 10(b) is a rule providing for the distribution of overtime work among the qualified employes of each shift, by crafts, as it arises in connection with work regularly assigned to each shift at the point involved.
3. Emergency road service is not regularly assigned to any particular group of employes on any particular shift.
4. Items 1 and 2 of the "understanding" (carrier's Exhibit A), referred to by the employes as being violated, are nothing more than an explanation of the handling to be given in distributing overtime within the car department at Wellington, Kansas and are not applicable to emergency road service. Item 4 of the "understanding" covers and specifically provides that "regardless of the amount of overtime an assigned regular wrecking crew member will be called when wrecker is called." Here as in the case of Awards 1909 and 2627 the wrecker was not called, but the Board ruled it was nevertheless wrecking service.
5. The second paragraph of the "Memorandum of Agreement" (carrier's Exhibits B and C), referred to by the employes as being violated, is not applicable to overtime resulting from emergency road service, such as in this dispute. Its meaning and intent was to distribute overtime worked resulting from derailments within the Wellington, Kansas yard limits.

Carrier asserts that the employes' claim in this dispute is entirely without support of the agreement rules and should be denied in its entirety.

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.

Parties to said dispute were given due notice of hearing thereon.

The carrier, as it had the right and obligation to do, determined that the wreck causing derailment and needed repairs, called the regularly assigned wrecking crew with no additional crew men and without derrick or other outfit.

Rule 108 (b) of the agreement then in mandatory terms defined of whom this crew should consist * * * "the regularly assigned crew will accompany the outfit", it also contemplated that overtime might accrue and made provision for its payment. (Rule 9(e).)

Rule 10(b) of the supplemental agreement effective April 12, 1956, which we hold to be binding on the parties, must be read in connection and reconciled with Rule 108(b) and cannot operate in the situation therein covered.

If 10(b) were the sole and controlling rule we may not disregard that part which reads "qualification of the employe to do the work to govern."

With no reflection on the ability of claimants, it is obvious that members of a regularly assigned wrecking crew would have superior qualifications to do the exacting and specialized work required in the emergency created by the wreck.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 23rd day of June 1959.