

Award No. 3695
Docket No. 3664
2-P&LE-TWUOA-'61

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Howard A. Johnson when award was rendered.

PARTIES TO DISPUTE:

**TRANSPORT WORKERS UNION OF AMERICA,
A. F. of L.—C. I. O. (Railroad Division)**

**THE PITTSBURGH & LAKE ERIE RAILROAD COMPANY AND
THE LAKE ERIE AND EASTERN RAILROAD COMPANY**

DISPUTE: CLAIM OF EMPLOYEES:

On Dec. 6, 1958 three cars were derailed on #1 Lead Track. Only three of the wreck crew members were sent out to rerail these cars. Section employees were also sent to this wreck to repair the rails that were damaged at this point. Six of these Section employees were used to help rerail these cars doing such work as blocking and laying rerailers. This work belongs to Carmen and not Section men. Since the full wreck crew was not used and the Section employees did work that belongs to Carmen the organization requests that the following employees: A. Joseph, A. Rasile, M. Macela, T. Rodgers, J. Theil, M. Bassista be paid three (3) hours at the punitive rate of pay for Dec. 6, 1958. This is the amount of time worked by the Section employees.

EMPLOYEES' STATEMENT OF FACTS: This case arose at Youngstown, Ohio and is known as Case Y-120. That the section employees did do the blocking and rerailing to help rerail the three cars that were derailed.

That the carrier had six wreck crew members waiting at home and were not called to help rerail the cars but section employees were used to do the work of these wreckers.

That the organization does have an agreement with the carrier that specifies that wreck crew members shall be made up of carmen.

That the work that was done by the section employees is work that belongs to carmen.

were on duty attempted to rerailed the car without success. The section men, having been previously called out to keep switches operating due to a heavy snow storm, being used to carry blocking and rerailed to assist in the rerailed of the car and make any necessary switch repairs. However, when the yard crew on duty was unable to rerailed the car, the job was deferred until the wreckmaster viewed the derailment sometime after 4:30 A. M., and decided to wait until daylight when he obtained three car repairmen from the car repair shop to assist the daylight yard crew in rerailed the cars. **There was no wreck train called, the car being rerailed with the use of blocking and rerailed and a yard engine.** It has been a long accepted practice on this property that yard crews handling engines or cars at the time of derailment, or if derailed while being handled by another yard crew, may rerailed the engines or cars with or without assistance where it can be performed without the aid of the wreck train. It is clearly the practice on this carrier that maintenance of way employes may properly assist trainmen in rerailed engines and cars by securing and handling blocks, rerailed, etc.

The Second Division has held through a long line of awards, some of which are referred to herein, that the rerailed of engines and cars is not the exclusive work of carmen when a wreck train is not called out. Since the use of the section men was in conformity with a long established practice that they could perform the common labor incidental to the rerailed, the claim here involved is without merit and should be denied.

CONCLUSION:

Carrier asserts that this claim should be denied for any or all of the following reasons:

1. There is no rule in the current carmen's agreement giving that class the exclusive work of rerailed cars or locomotives when the wreck train is not called.
2. That such work has never been assigned exclusively to carmen and has been for years performed by yard crews with or without the assistance of section men and/or carmen.
3. Awards of the National Railroad Adjustment Board support the position of the carrier.
4. No rules of the applicable agreement were violated.

The carrier respectfully submits that the claim is without merit and 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.

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

Local or yard forces were unable to rerail cars derailed within yard limits; three carmen were then called and were sufficient to rerail the cars. The applicable provision of Rule 27(c) was therefore fully complied with, and there was no violation of the Agreement.

Awards 222, 1126, 1327, 1678 and 1763 are not relevant, the rules applicable to those cases being entirely different from those here involved.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 27th day of February 1961.