

Award No. 3936

Docket No. 3703

2-L&N-CM-'62

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:

**SYSTEM FEDERATION NO. 91, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)**

LOUISVILLE & NASHVILLE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES: 1—That the Carrier violated the terms of the Agreement at 2:45 A. M., January 15, 1959 when the Corbin Wrecking Outfit was dispatched to Turtletown, Tennessee without the regular assigned crew, and

2—When the wrecking outfit was manned at the scene of derailment by other than the regular assigned crew, and

3—Accordingly the Carrier be ordered to compensate the entire Corbin, Kentucky wrecking crew for all time consumed from 2:45 A. M., January 15, to 12:10 A. M. January 20, 1959.

EMPLOYEES' STATEMENT OF FACTS: At Corbin, Kentucky, the Louisville and Nashville Railroad Company, hereinafter referred to as the carrier, maintains a wrecking outfit which is manned by a regularly assigned wrecking crew composed of the following carmen:

G. C. Gentry	Monday through Friday	7:00 A. M.-3:30 P.M.
T. W. Hixon	Monday through Friday	7:00 A. M.-3:30 P.M.
L. Starritt	Monday through Friday	7:00 A. M.-3:30 P.M.
R. J. Rowland	Monday through Friday	7:00 A. M.-3:30 P.M.
H. Poynter	Monday through Friday	7:00 A. M.-3:30 P.M.
H. H. Smith	Monday through Friday	7:00 A. M.-3:30 P.M.
D. Philpot	Tuesday through Saturday	7:00 A. M.-3:30 P.M.
S. W. Strunk	Tuesday through Saturday	7:00 A. M.-3:30 P.M.
C. D. Huff	Tuesday through Saturday	7:00 A. M.-3:30 P.M.

Prior to 2:45 A. M., January 15, 1959, there was a train derailment at Turtletown, Tennessee, 198 miles south of Corbin, Kentucky. At 2:45 A. M., on this date, the Corbin, Kentucky wrecking outfit, without regular assigned crew, was dispatched to the scene of derailment.

the rerailment had been completed and the Etowah wrecker returned to headquarters. There are two wrecking outfits at Corbin which are manned by the same regularly assigned crew. During the time the derrick only of one of the outfits was en route to and from Etowah, the regularly assigned crew remained at Corbin and was called out for wrecking service during this period at which time they utilized the other set of equipment.

POSITION OF CARRIER: Carrier is of the opinion there has been no violation of the agreement in forwarding a derrick from Corbin to Etowah. The wrecking outfit was retained at Corbin and, as set out in the foregoing, was in use manned by the regularly assigned wrecking crew during a portion of the period for which they now claim time. Further the wrecking outfit was not forwarded to Etowah. All that was forwarded was a derrick. To allow such a claim as was made in this dispute would penalize the railroad for payment in wrecker service at Etowah during a portion of the time when these employes were already engaged in and being paid for performing wrecking service elsewhere. Also, R. J. Rowland, for whom claim has been made, was on vacation during this period and was not eligible to be called for wrecking service.

There is no merit to the claim of the employes and it 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.

The heavy wrecking outfit at Corbin was sent dead in train to a derailment at Turtletown, worked there for twelve hours, and after some delay returned by train. Under Rule 108 the regular assigned crew should have accompanied the outfit. It should therefore be paid the amount which it would have received had it accompanied the outfit direct to wreck, worked twelve hours, and then returned direct to headquarters, with deduction for time actually paid for during that period. See Award 857 (without referee), 1069, 1362, 3259, and 3365.

The case must be remanded to the property for determination of the amounts to be paid.

AWARD

Claims 1 and 2 are sustained.

Claim 3 is remanded for settlement consistent with above findings:

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 31st day of January, 1962.