Award No. 4335

Docket No. 3972

2-GTW-CM-'63

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Charles W. Anrod when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 92, RAILWAY EMPLOYES' DEPARTMENT, A. F. of L. — C. I. O. (Carmen)

GRAND TRUNK WESTERN RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: (1) That under the current agreement, Carman Martin LaBrie, hereinafter referred to as the Claimant, regularly assigned wreck crew member, was denied the right to work his regular wrecking assignment when said assignment happened on the rest day, February 1, 1960.

(2) That accordingly, the Carrier be ordered to compensate wreck crew member Martin LaBrie the amount equal to the amount of hours consumed by the wrecking crew members on derailment on February 1, 1960, at time and one-half rate for not being called on his rest day.

EMPLOYES' STATEMENT OF FACTS: The Grand Trunk Western Railroad Company, hereinafter referred to as the carrier, maintains a wrecking outfit at Pontiac, Michigan with a regularly assigned crew composed of regularly assigned carmen.

Carman Martin LaBrie, with work week assignment of Tuesday through Saturday, hereinafter referred to as the claimant, is a regularly assigned member of the wrecking crew.

On Monday, February 1, 1960, the carrier called the wrecking crew to rerail a car but instead of using the claimant, the carrier called a carman from the repair track and substituted him in the wrecking crew for the claimant.

This dispute was handled on the property with all carrier officers authorized to handle grievances, including the highest designated officer, with the result that he too declined to adjust it.

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

POSITION OF EMPLOYES: It is submitted that the claimant, who is a regularly assigned member of the Carrier's wrecking crew at Pontiac, Mich-

Since the foregoing quoted Bulletin is silent as to the use of wrecking crew members on their rest days, the past practice again should be referred to in determining the merits of the employes' contention that LaBrie should have been called for wrecking service on his rest day.

There being no rule or agreement contained in the current Shop Crafts Working Agreement which will support the instant claim, and the contentions of the employes being inconsistent with the established past practice, the instant claim should be denied and carrier requests that this Board so award.

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 waived right of appearance at hearing thereon.

The Claimant M. LaBrie has been employed as a carman at the Carrier's Pontiac (Michigan) repair track. He has also been a regularly assigned member of the Pontiac wrecking crew. On February 1, 1960, the wrecking crew was called out to rerail a car. Since the Claimant was on his rest day, the Carrier assigned another carman, who was not a regularly assigned member of the wrecking crew, to accompany the crew in lieu of the Claimant. The crew performed wrecking service from 10:45 A. M. to 1:30 P. M., or for two hours and forty-five minutes.

The Claimant filed the instant grievance in which he contended that the Carrier denied him his contractual right to perform wrecking service in the above described incident. He requested compensation equal to the amount of hours consumed by the wrecking crew at the rate of time and one-half. The Carrier denied the grievance.

In support of his claim, the Claimant primarily relies on Rules 107 and 108 of the applicable labor agreement which read, as far as pertinent, as follows:

> **Rule 107:** "Wrecking crews . . . shall be composed of regularly assigned carmen . . .
>
> **Rule 108:** "When wrecking crews are called for wrecks or derailments . . . sufficient regularly assigned carmen will be called to perform the work."

1. The law of labor relations is well settled that a labor agreement must be construed as a whole. Single words, sentences or sections cannot be isolated from the context in which they appear and be construed independently with disregard for the apparent intent and understanding of the parties as evidenced by the **entire** agreement. The meaning of each sentence or section must be determined by reading **all** pertinent sentences and sections together and coordinating them in order to accomplish their evident aim and purpose. See: Awards 4130, 4190 and 4192 of the Second Division.

Applying the above principle to this case, we have reached the following conclusions:

Rule 107 prescribes that wrecking crews shall be composed of regularly assigned carmen. Supplementing said Rule, Rule 108 provides that when wrecking crews are called for wrecks or derailments, sufficient regularly assigned carmen have to be called to perform the work. In the absence of a convincing showing to the contrary, as is here the case, the term "regularly assigned carmen" can reasonably be construed only as referring to carmen who have been regularly assigned as members of the wrecking crew pursuant to the bidding provisions of Rule 14 of the labor agreement.

The record shows hat the Claimant bid on the position of a regularly assigned member of the Pontiac wrecking crew in December, 1959, and was awarded such position (see: Organization's Exhibit "A"). Hence, he was entitled to the work in dispute and should have been called by the Carrier to perform it. The latter's failure to do so constituted a violation of the Claimant's contractual rights.

2. In further defense of its denial of the instant claim, the Carrier relies on past practice. The Claimant has denied the existence of such a practice (see: Organization's rebuttal brief, p. 1). Our attention has not been called by the Carrier to a representative number of specific instances from which we could conclude the existence of a long-continued and consistent practice well-known to and generally accepted by all interested parties. To demonstrate the existence of a binding rule to govern the rights of the parties, past practice must more adequately exhibit mutual understanding than the record here reveals. See: Award 4265 of the Second Division and other Awards cited therein.

3. Because of the Carrier's failure to call him for the work under consideration, the Claimant is entitled to compensation in the amount of two hours and forty-five minutes at the pro rata rate. His additional claim for compensation at the rate of time and one-half is unjustified and hereby denied. See: Award 3868 of the Second Division.

AWARD

Claim partly sustained and partly denied in accordance with the above Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 6th day of November, 1963.