Award No. 4337

Docket No. 3988

2-B&O-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. 30, RAILWAY EMPLOYES' DEARTMENT, A. F. of L. — C. I. O. (Carmen)

THE BALTIMORE AND OHIO RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES: 1. That under the current agreement the carrier improperly assigned other than carmen to rerail MILW Car 13731 on Track No. 20, Hill Street Yard, Baileys, Baltimore, Md. on March 9, 1960.

2. That accordingly the carrier be ordered to compensate Carmen W. Scholtthober, H. Chaney, F. Coleman and A. Lang one call (four hours) each at the applicable rate of pay.

EMPLOYES' STATEMENT OF FACTS: The Baltimore and Ohio Railroad Co., hereinafter referred to as the carrier maintains a car repair shop known as Bailey Shop at Baltimore, Md., whereat it employs carmen. Baltimore Hill Street Yard comes under the territorial jurisdiction of Bailey Shop.

On March 9, 1960, prior to 7:00 A. M., MILW Car 13731 was derailed on Track No. 20 in carrier's Hill Street Yard. Shortly after the shifts changed at 7:00 A. M. carrier assigned M of W Foreman Rhinehart and three (3) trackmen, who were engaged in repairing a broken rail in the Camden Yard, to rerail MILW Car 13731 with blocks and shells, as evidenced by copy of statement dated Feb. 27, 1961, over the signature of Car Inspector F. M. Kramer.

Carmen W. Schlotthober, H. Chaney, F. Coleman and A. Lang hereinafter referred to as the claimants are regularly employed as carmen at carrier's Bailey Shop, Baltimore, Md.

This dispute has been handled with all officers of the carrier designated to handle such disputes, including the highest designated officer of the carrier, all of whom have declined to make satisfactory adjustment.

The agreement as Revised September 1, 1926 and Reprinted Nov. 1, 1952 as subsequently amended is controlling.

coming under the scope of the operating as well as the non-operating agreements, there being no exclusive reservation of this work to employes coming under the Carmen's Special Rules of the Shop Crafts' Agreement. The carrier has cited numerous awards of this Division confirming this general proposition. On this basis, therefore, the claims found here should and ought to be denied. The effect of the claim here made by the Carmen's Committee is to capture to the Special Rules of the Carmen's Agreement work that has never before been its exclusive reservation.

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.

In the early morning hours of March 9, 1960, a car was derailed in the Carrier's Hill Street Yard, Bailey Shop, Baltimore, Maryland. One wheel of the car was off the rail but there was no damage to the car, equipment or lading. Shortly after 7:00 A. M., employes other than carmen rerailed the car by use of blocks and rerailers. No wrecking crew was called out and no wrecker was used. The rerailing consumed about ten to fifteen minutes.

The four Claimants H. Chaney, F. Coleman, A. Lang, and W. Scholtthober have been employed as carmen at the Bailey Shop. They filed the instant grievance in which they contended that the Carrier violated the second sentence of Rule 142 of the applicable labor agreement when it assigned the rerailing of the car under consideration to employes other than carmen. They requested compensation in the amount of four hours each at the pro rata rate. The Carrier denied the grievance.

1. The Claimants contend that maintenance-of-way foreman Rhinehart and three trackmen rerailed the car in question. Contrary thereto, the Carrier asserts that the car was rerailed by members of the day-light yard crew. We need not resolve this discrepancy because the pivotal question posed by this case is whether the Carrier could legitimately assign employes other than carmen to rerail the car or whether such work exclusively belonged to carmen.

2. We have repeatedly been called upon to define the rights of carmen to rerail locomotives or cars under Rule 142 upon which the Claimants rely. The previous cases involved the same Carrier and the same Organization which are here involved. In the first case (Docket 3040), a car was derailed in the Carrier's yard at Toledo, Ohio. It was rerailed by a yard engine crew. We held in our Award 3257 that carmen do not have the exclusive right to do the work of rerailing locomotives or cars within or outside of yards unless a wrecking crew is called or required to do the work. In the second case (Docket 3080), two pair of wheels of a diesel unit were derailed within the Carrier's Cone Yard, East St. Louis, Illinois. The wheels were rerailed by a hostler and some roundhouse employes. In our Award 3265, we denied the claim of carmen that said rerailing exclusively belonged to them. In the third case (Docket 3757), the front wheels of a diesel unit were derailed within the Carrier's yard limits at Keyser (West Virginia). They were rerailed by

a hostler, some roundhouse employes, and a maintenance of way trackman. In our Award 3859, we again denied the claim of carmen that said rerailing exclusively belonged to them.

We are aware of the fact that prior Awards of this or any other Division of this Board are not binding upon us. Nevertheless, all Divisions of this Board have consistently held that, if a dispute involves the same or substantially comparable facts and the same contractual provisions as were submitted for adjudication in a previous dispute, the prior Award will generally be followed, except when such Award is shown to be glaringly erroneous, or plainly unfair. See: Award 3991 of the Second Division and cases cited therein.

We have carefully re-examined our prior Awards 3257, 3265, and 3859 in the light of the above principle but have found nothing in the record before us which would justify a different ruling. We, therefore, reaffirm said Awards and hold that the instant grievance is unjustified.

3. Notwithstanding the foregoing holding, we deem it advisable once again to outline our reasoning on the issue under consideration for the purpose of excluding further, indefinite litigation.

The law of labor relations is well established 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 section or sentence must be determined by reading all pertinent sections and sentences together and coordinating them in order to accomplish their evident aim and purpose. See: Award 4335 and cases cited therein.

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

The Claimants argue that their claim is justified under the second sentence of Rule 142 of the labor agreement. The flaw in their argument is that they read the sentence in isolation without paying attention to the context in which it appears. However, the sentence can properly be understood and interpreted only if it is read together and coordinated with the entire Rule 142. This Rule reads as follows:

> "Make-up Wrecking Crews.
>
> "When wrecking crews are called for wrecks or derailments outside of yard limits, a sufficient number of regularly assigned crew will accompany the outfit. For wrecks or derailments within yard limits, sufficient carmen will be called to perform the work."

From the face of Rule 142 it is apparent that the two sentences supplement one another. The first sentence relates to wrecks or derailments outside of yard limits and the second to wrecks or derailments within yard limits. The entire Rule clearly deals with the composition of make-up wrecking crews and thus is applicable only when such wrecking crews are called.

In the instant case, no wrecking crew was called. Hence, the work performed in rerailing the car in question did not exclusively belong to carmen under Rule 142. In addition, no wrecking equipment was used, the operation

of which would possibly have belonged to carmen under Rule 141 of the labor agreement.

In summary, we hold that the Carrier did not violate Rule 142 or any other Rule of the labor agreement when it assigned the rerailing of the car under consideration to employes other than carmen.

AWARD

Claim denied.

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.

DISSENT OF LABOR MEMBERS TO AWARD 4337

We are of the opinion that the majority misconceives the function of the Adjustment Board (See Award 2285) and for that reason has not applied the governing agreement as written. When the language of a rule is plain as to its meaning, it is not subject to construction. It will be enforced as made. The Board has no right to impose its ideas when the language of a rule is so plain in its meaning as to be beyond interpretation.

> "When wrecking crews are called for wrecks or derailments outside of yard limits, a sufficient number of the regularly assigned crew will accompany the outfit. For wrecks or derailments within yard limits, sufficient carmen will be called to perform the work."

The first sentence of above quoted Rule 142 provides that when wrecking crews are called for derailments outside of yard limits, the assigned crew will ACCOMPANY THE OUTFIT. In the second sentence it is provided that sufficient carmen will be called TO PERFORM THE WORK. The change of language is significant and sustains rather than denies the right of carmen to perform the instant work.

C. E. Bagwell

T. E. Losey

E. J. McDermott

R. E. Stenzinger

James B. Zink