

Award No. 4701
Docket No. 4514
2-NYNH&H-CM.'65

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Bernard J. Seff when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 17, RAILWAY EMPLOYES'
DEPARTMENT, A. F. of L.-C. I. O. (Carmen)**

**THE NEW YORK, NEW HAVEN & HARTFORD RAILROAD
COMPANY**

DISPUTE: CLAIM OF EMPLOYES: 1. That under the terms of the current agreement the New York, New Haven & Hartford Railroad Co. made improper deductions from the wages of Car Inspectors K. Kapral, G. Zavarella, S. Sturgis and D. Goggin, the week ending May 30, 1961.

2. That accordingly the New York, New Haven & Hartford Railroad Co. be ordered to reimburse these Car Inspectors in the following amounts:

K. Kapral\$20.74 S. Sturgis\$10.37
G. Zavarella\$ 8.43 D. Goggin\$10.37

EMPLOYES' STATEMENT OF FACTS: The New York, New Haven & Hartford Railroad Co., hereinafter referred to as the carrier, operates a car yard facility at Hartford, Connecticut, 37½ miles from the nearest wrecking outfit, at New Haven, Connecticut.

K. Kapral, G. Zavarella, S. Sturgis and D. Goggin hereinafter referred to as the claimants, are employed by the carrier at this facility as car inspectors, with the following regularly assigned hours:

K. Kapral	4:00 P.M. to 12:00 M.	Sun. & Mon.
	12:00 M. to 8:00 A.M.	Tues.
	Rest days	Wed. & Thurs.
	12:00 M. to 8:00 A.M.	Fri.
	4:00 P.M. to 12:00 M.	Sat.

G. Zavarella	4:00 P.M. to 12:00 M.	Sun.
	Rest days	Mon. & Tues.
	4:00 P.M. to 12:00 M.	Wed. & Thurs.

instant case and have chosen not to make claim thereunder. Rather, they are attempting to establish that carrier must pay carmen not members of a wrecking crew and not used pursuant to Rule 110 under the provisions of Rule 8 which is specifically limited to wrecking service employees.

Carrier has shown that under Rules 7, 8 and 110 as read together there is no basis for the claim as herein presented. Rule 8 does not govern payment to all employees who may be used under any circumstances to perform emergency service, but, rather, is specifically limited as set forth in Rule 110. Accordingly we have shown that under previous settlements on the property and the rules of the controlling agreement, Rule 7 is the proper basis of pay and the claim of the employees must 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 waived right of appearance at hearing thereon.

The Claimants are employed at Hartford, Conn., as car inspectors. The claimants were called from the overtime list at Hartford to assist in rerailling cars at a siding known as Laurel, at Middletown, Conn. The Organization contends that these employes should have been compensated for this service under the provisions of Rule 8—Wrecking Service. As such they claim they were entitled to be paid double time for all work in excess of 16 hours.

The Carrier takes the position that the men were properly paid under Rule 7—Emergency Road Service—which does not require penalty pay of double time for work in excess of 16 hours. In the view of the Carrier Rule 8 does not apply to the employes involved in the instant matter but applies specifically to regularly assigned members of a wrecking crew; it is also contended that the work of rerailling cars is not encompassed in Rule 8.

The identical issue presented in the case at bar has been previously litigated before this Division. Award No. 2627 determined that the

“ * * * phrase ‘wrecking service’ as used in Rule 9 (e) includes rerailling service not involving the use of the wrecking outfit.”

To the same effect see prior Second Division Awards 1909, 1177, 1062, 1126 and 1327. In view of the fact that the circumstances set forth in the cited cases are analogous to the case at bar we see no reason to depart from well established precedent to reach a contrary conclusion.

AWARD

Claims sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 29th day of April, 1965.