Award No. 4863
Docket No. 4796
2-NYNH&H-CM-'66

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Levi M. Hall when award was rendered.

PARTIES TO DISPUTE:

SYSTEM FEDERATION NO. 17, RAILWAY EMPLOYES' DEPARTMENT, AFL-CIO (Carmen)

THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. That the New York, New Haven & Hartford Railroad Company violated the terms of the current agreement when they failed to call the regularly assigned wrecking crew to accompany the New Haven, Connecticut wrecking outfit to Waterbury, Connecticut on Friday, November 30, 1962.

2. That accordingly the New York, New Haven & Hartford Railroad Company be ordered to additionally compensate the following named regularly assigned members of the New Haven wrecking outfit as follows:

E. Hunt—Eight (8) hours at time and one-half, six and one-half (6½) hours at double time, less two (2) hours straight time already paid.

J. Granfield—Eight (8) hours at time and one-half, six and one-half (6½) hours at double time.

EMPLOYES' STATEMENT OF FACTS: The New York, New Haven & Hartford Railroad Company, hereinafter referred to as the carrier, maintains a wrecking outfit, with a regularly assigned crew, at its New Haven, Connecticut car yard facility, E. Hunt and J. Granfield, hereinafter referred to as the claimants being regularly assigned members of this wrecking crew.

On Friday, November 30, 1962 the New Haven wrecking outfit was called for wrecking service to Waterbury, Connecticut, a distance of twenty (20) miles outside of New haven, Conn., yard limits, at 11:30 A.M. and the crew, less the two claimants who were not called for this wrecking service, was released at their home terminal at 2:00 A.M., Saturday, December 1, 1962, a total of 14.5 hours in wrecking service.

chairman, or even this board, can now refute the author's admitted intention.

In such cases carrier has called what it deems to be a sufficient number of men and the employes have never progressed their contention to the contrary until 1962 when they raised the issue in another instance where the Boston tool train was sent to Framingham Yard with ten members of the wreck crew. In that case, which is now before your board for adjudication (See board Docket No. 4594) the employes have requested the board to order the carrier to call the regularly assigned crew to accompany the outfit, but make no monetary claim on behalf of the four regularly assigned crew members who were not called.

This is prima facie evidence, submitted by the employes themselves, proving the carrier's position that the rule does not require, and never did require, that the full crew be called when the tool train is used for rerailing service within yard limits regardless of where the yard involved is located.

In their rebuttal in board Docket No. 4594 the employes introduced reference to awards on other railroads, but the awards cited are distinguishable in that the facts involved were entirely different, or the rule covering this type of service was not the same rule in effect on this property.

Upon the whole record we respectfully submit that Rule 111 makes a distinction between derailments within yard limits and those without; that the obligation of the carrier with respect to main line derailments is to call the regularly assigned crew and that its only obligation for derailments within yard limits is to use a sufficient number of men when the wrecker is called.

The rule, the practice, and the interpretation are of long standing and have survived two complete contract revisions. If doubt existed, it has long since been removed by the actions of the parties. Thus, we respectfully submit that if your Board is now to hold that the term "yard limits" means "yard limits of the yard where the wrecker and crew are headquartered," you will be enlarging upon the obligations of the carrier and will, at the same time, be granting to the employes a right which dotes not now exist under the contract. Plainly this is beyond the scope of your function.

The instant claim 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.

Three freight cars were derailed within the yard limits of Waterbury, Conn. The complete wrecking outfit from New Haven, Conn., was used at the Waterbury Yard but not all of the regularly assigned crew was called.

The instant case involves an interpretation of Rule 111 of the Carmen's current Agreement.

Similar situations requiring an interpretation of the same rule were presented in Awards 4763, 4764 and 4765 (Johnson), the last two Awards involving the identical wrecking crew, and resulted in denial awards.

The Board concurs in the result reached in each of these awards.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 13th day of April, 1966.

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