



Award No. 4910

Docket No. 4843

2-RDG-CM-'66

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. 109, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

READING COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the controlling agreement when Carmen J. H. Witmoyer, A. Cieri, W. M. Eisenhower, E. J. Gilbert, A. Bolognese, L. R. Grube, D. J. Parenti, W. A. Madara and R. L. Musket were not called to accompany the wrecking outfit when it left Reading, Pennsylvania at 10:00 p.m. on March 14, 1964.

2. That accordingly the Carrier be ordered to compensate the aforesaid employees fifteen (15) hours at the time and one-half rate of pay.

EMPLOYEES' STATEMENT OF FACTS: Above named claimants are employed by the carrier and hold seniority at Reading Car Shop, all are members of the Reading wreck crew.

Saturday, March 14, 1964, the Reading wrecking outfit was called to attend a derailment at Woodmont, Pennsylvania. The wreckmaster and derrick engineer accompanied the outfit. For this service the derrick engineer was paid 15 hours at the time and one-half rate.

March 16, 1964, at 3:00 a.m. claimants were called to proceed to the scene of the derailment, worked the derailment and reported off duty at Reading at 1:00 a.m. March 17, 1964. For this service they each received 8 hours at straight time pay and 14 hours at time and one-half rate of pay.

The dispute has been handled with carrier officers up to and including the highest officer, so designated by the carrier, all of whom declined to adjust same.

The agreement effective January 16, 1940, as it has subsequently been amended, is controlling.

Reading relief train was ordered and dispatched at 10:00 p.m. on Saturday, March 14, 1964, with the Wreckmaster and derrick engineer in order to be in position to assist in rerailing coaches on Monday, March 16, 1964. The crew consisted of a sufficient number of the wreck crew to accompany the relief train outfit that was moved ahead of the actual work to be performed on Monday, March 16, 1964.

Until the roadbed and track were restored, premitting the two relief trains to operate on the track, one from each end, there was no requirement for any additional relief train crew.

The remaining relief train crew were called on Sunday, March 15th, to report 3:00 a.m. on Monday, March 16th, at Reading, Pa., and were transported by auto to Woodmont. They were likewise returned from Woodmont, arriving at Reading at 1:00 a.m. on Tuesday, March 17th. Claimants were properly compensated in accordance with applicable rule for traveling and work performed in this instance.

Under the circumstances as herein stated, sufficient members of the Reading relief train were called to accompany the relief train on Saturday, March 14th. The remaining members of the crew were properly called to perform the work scheduled with the relief train on Monday, March 16th.

The services of the additional men, claimants in this case, were not required until Monday, March 16th, and there is no rule requirement that they should be further compensated 15 hours additional at punitive rate.

It is the carrier's position that there was no violation of rule in this case, that the claimants were not needed, required or scheduled to accompany the relief train on March 14th. No rule was violated and under the particular circumstances, request the board to so find and deny the claim.

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.

A derailment occurred at Woodmont on Saturday morning under circumstances requiring two wrecking outfits, the second of which could not be used until tracks had been restored. But the Carrier ordered the Reading derrick out on Saturday at 10:00 p.m., accompanied by only the wreckmaster and derrick engineer; on Sunday it ordered the Claimants, who were regularly assigned members of the crew, to report on Monday at 3:00 a.m., and then took them to the derailment by auto.

Rule 111 provides in relevant part:

"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."

The Carrier contends that the two crew members sent with the outfit on Saturday night constituted "a sufficient number of the wreck crew to accompany the relief train outfit." But the rule refers to wrecking crews called for wrecks or derailments, and the requirement of a sufficient number clearly relates to the use of the outfit for the purpose, and not merely to its conveyance there. The fact that the Claimants were used in the rerailing operation indicates that they were all included in the "sufficient number."

The derrick was not used until the Claimants' arrival, and its dispatching ahead of them is not explained; but Rule 111 provides that they accompany it. Pay for service not performed is at the straight time rate.

AWARD

Claim sustained to the extent indicated in the Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 30th day of June, 1966.