

Award No. 4958

Docket No. 4844

2-ACL-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. 42, RAILWAY EMPLOYEES'
DEPARTMENT, AFL-CIO (Carmen)**

ATLANTIC COAST LINE RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1 - That under the controlling agreement, the carmen and carmen helpers assigned to the Waycross, Georgia Wrecker Crew; namely, H. B. Puris, H. B. Brooks, J. R. Lee, T. C. White and Lige Seretchen, were not properly compensated for the time waiting at Climax, Georgia, while enroute from Brinson, Georgia where they had cleared up a wreck which occurred on January 13, 1964, to Thomasville, Georgia, where another minor derailment had occurred.

2 - That accordingly the Atlantic Coast Line Railroad be ordered to pay the above listed members of the Waycross Wrecker Crew for seven (7) hours at the time and one-half rate for service rendered while waiting at Climax, Georgia on January 13 and 14, 1964.

EMPLOYEES' STATEMENT OF FACTS: The Atlantic Coast Line Railroad, hereinafter referred to as the carrier, and Employes H. B. Purvis, H. B. Brooks, J. R. Lee, T. C. White and Lige Seretchen, hereinafter referred to as the claimants, at its Waycross, Georgia Car Shops, and they are assigned as members of the Waycross Wrecker Crew.

The Waycross wrecker was dispatched to Brinson, Georgia on January 13, 1964 to clear up a wreck which had occurred at that point. All work involved in clearing up the wreck at Brinson was finished prior to 11:59 P.M., January 13, 1964. In the meantime another minor derailment had occurred at Thomasville, Georgia, a point on the Atlantic Coast Line Railroad between Brinson, Georgia and Waycross, Georgia, which is the home point of the wrecker herein involved. Upon completion of the work at Brinson the wrecker was forwarded to Thomasville, Georgia, to clear up the derailment at that point. While enroute to Thomasville the sixteen hour law caught the train crew and the wreck train was delayed seven (7) hours at Climax, Georgia, while waiting for another train crew. The carrier refused

It is carrier's position that the intent of Rule 6 is to permit carrier to relieve employes from duty while engaged in emergency road service to enable them to secure rest, without compensation, provided that in no case shall such employes be paid less than eight (8) hours each calendar day when such irregular service prevents the employes from making their regular daily hours at home station. The claimants were paid for all time waiting and traveling, for services rendered, and were furnished meals and lodging. Each of the claimants made more each day on the road than he would have made had he stayed at his home station.

The claim is without merit and is not supported by the agreement. Therefore, we respectfully request that your Board 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 waived right of appearance at hearing thereon.

The Claimants were enroute between wrecking jobs; their work train was held at Climax over night because the train crew was caught by the 16-hour law. The Carrier purported to relieve the Claimants from duty under Rule 6 (b) from 11:59 P.M. until 7:00 the next morning, and contends that this was advisable because they had been on duty for seventeen hours. However, the Claimants note that they had sleeping facilities with them and were able to rest during their travel and waiting time, during which they were entitled to pay under Rule 6 (a).

This Division has repeatedly held that rest periods without pay are proper if given before the actual work has been completed, but not during waiting or travel time afterward. See Awards 154, 161, 360, 790, 828, 873, 874, 1028, and 1048, the second, eighth and ninth of which were made without referees.

However, the Carrier contends that this case differs in that the Claimants still had wrecking service to perform before returning home, and that their active work had therefore not been completed. But the travel and waiting time between two wrecks is no different from that between a wreck and the home point. We therefore conclude that the claim should be sustained.

AWARD

Claim sustained.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

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

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