

Award No. 5404

Docket No. 5256

2-RDG-CM-'68

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee George S. Ives when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 109, RAILWAY EMPLOYEES'
DEPARTMENT, A. F. of L. - C. I. O. (Carmen)**

READING COMPANY

DISPUTE: CLAIM OF EMPLOYEES:

1. That the Carrier violated the controlling agreement when Carmen R. L. Musket and A. Cieri were not called to accompany the wrecking outfit when it left Reading, Pennsylvania on August 8, 1965.

2. That accordingly, the Carrier be ordered to compensate the aforesaid employees eleven hours at the time and one-half rate of pay.

EMPLOYEES' STATEMENT OF FACTS: The above named claimants are employed by the Carrier and hold seniority at Reading Car Shop and are members of the Reading Wreck Crew.

Sunday, August 3, 1965, Wreckmaster F. Casella was dispatched to Lykens, Pennsylvania, to attend a derailment of a car which the West Cressona carmen present at the derailment were unable to handle due to their not having the experience needed and the equipment needed for this operation.

Wreckmaster Casella took the necessary equipment and two carmen of the regularly assigned Reading Wreck Crew to the derailment. Upon arrival at the derailment, it was determined that the two carmen, who had accompanied the Reading Wreck outfit, were not members of the Reading wreck crew in re-railing the cars.

The West Cressona carmen were not members of the Reading wreck crew and did not have common seniority with the Reading wreck crew, but held seniority in the West Crassona seniority district, which is a separate district from that of the Reading Wreck Crew.

There are no Carmen regularly assigned at Lykens, Pennsylvania.

This 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.

assigned to the wrecker crew. When a wrecker outfit is not called, the rerailling of locomotives and cars is not the exclusive work of carmen. Awards 2049, 1763, 1757, 1482, 1322. The claim for rerailling the cars is not valid."

Second Division Award 4541 involved a derailment at Muscatine, Iowa where the carrier dispatched four members of the regularly assigned wrecking crew from a nearby point. The wrecking derrick was not sent out and the crew members traveled by highway truck. Section laborers were used to assist these crew members and the claimants were the additional members of the regularly assigned wreck truck. The claim of the organization was denied. (See also Second Division Award 4682)

In effect, the work at Lykens involved a simple rerailling operation requiring only the use of jacks, blocks and skids. Hence Carrier was justified in using the services of any member of the carmen's craft rather than the entire wreck crew. The members of the wreck crew who traveled to the scene by truck joined the West Cressona carmen in rendering routine and ordinary carmen's work. There was no need for the specialized services of the relief train and its regularly assigned unit as demonstrated by the fact that the car was rerailled by the employment of jacks, blocks and skids. Second Division Award 1322 recognizes the conditional nature of the word "when" in Rule 111 as limiting the rule's application to situations where the crew and its derrick are called as an operational unit.

Without prejudice to the above argument, Carrier further notes that the claimants rendered compensated service on August 4, 1965 and hence if the merits are decided against Carrier the claimants are entitled to only one hour pay at the pro rata rate. Second Divisions Awards 1268, 2346, 3045.

For the reasons advanced hereinbefore, Carrier concludes that the claim of the organization in this dispute should be denied in its entirety.

This claim has been handled by discussion and correspondence with representatives of the Organization and the information contained herein is mutually known to both parties. (Exhibits not reproduced).

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.

On August 4, 1965, PRR #269170 was rerailled at Lykens, Pennsylvania by Carrier's Wreck Master and two of his crew from Reading, Pennsylvania together with two carmen from West Cressona, who were already at the location of the derailment. The rerailling operation was accomplished by means of skids, jacks and blocks brought to Lykens by the Wreckmaster and his two crew members in Carrier's truck. Neither the relief train nor the derrick were

called from Reading, Pennsylvania by the Carrier. Petitioner contends that Carrier violated Rule 111 of the current Agreement when two West Cressona carmen were assigned to assist the members of the Reading Wreck Crew rerailed PRR #269170 at Lykens. Claimants are members of the Reading Wreck Crew, who Petitioner contends should have accompanied the "outfit."

The pertinent language of the Rules applicable to this situation provides as follows:

Rule 110
Wrecking Crews

"Regular assigned wrecking crews (including available and properly qualified engineers and firemen when required), will be composed of carmen and will be paid for such service under Rule 10."

* * * * *

When needed, men of any class may be taken as additional members of wrecking crews to perform duties consistent with their classification."

Rule 111
Wrecking Service

"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."

Carrier contends that the disputed work at Lykens was a simple rerailing operation which only required the use of jacks, blocks and skids, and the Rule 111 of the Agreement does not require the utilization of the full wrecking crew unless the derrick and relief train are called. Petitioner contends that because the wreck crew and equipment both were called from Reading to perform wrecking service at Lykens, a sufficient number of the regularly assigned crew should have accompanied the equipment.

Prior awards of this Division have held that once the need for a wrecking crew has been determined and the crew is called for wrecks or derailments outside yard limits, Carriers are required to call a sufficient number of regularly assigned crew members to accompany the "outfit." Awards 4190 and 5003. However, when derailments have occurred outside of yard limits and the service of the "outfit" is not required, other awards have held that wrecking crews (carmen) do not have an exclusive right to perform the work. Awards 1482, 4821, 5032 and others.

Petitioner asserts here that "the outfit" was called by Carrier, whereas the record reveals that only the Wreckmaster and two crew members, with skids, jacks and blocks, were dispatched to the scene of derailment by Carrier's truck, and that neither the derrick or relief train were called or needed. Under the provisions of Rules like Rule 111, this Board previously has determined that a derrick is an essential part of "the outfit" and that trucks sent in lieu thereof do not become "the outfit." Award 4821.

In this case, the derrick was not required, and the necessary work was performed by three members of the wrecking crew from Reading and two other

carmen from a different location with skids, jacks and blocks. Accordingly, we find that Rule 111 is inapplicable as the wrecking "outfit" was not called or required by Carrier to rerail PRR #269170.

AWARD

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 25th day of April 1968.