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Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 6497
Docket No. 6341
2-PT-CM-'73

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

Parties to Dispute: (System Federation No. 18, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(Portland Terminal Company

Dispute: Claim of Employees:

1. That the Portland Terminal Company violated the current agreement between them and System Federation No. 18, A.F. of L.-C.I.O., namely Rules No. 96 and 97 on June 17 and 18, 1971, by using other than carmen to augment the wrecking crew.
2. That accordingly, the Portland Terminal Company be ordered to compensate Carman M. W. Cook, Jr., regularly assigned member of extra list, in the amount of twenty nine hours (29) at the Carmen's applicable rates of pay for June 17 and 18, 1971, account he was available and should have been called to perform the work in question.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 wrecking crew of the Carrier was dispatched to the scene of a wreck, where a member of the section gang assisted the cook during meal-time.

It is the position of the claimant, that, in the absence of the Ass't. Cook, who was off sick, he should have been called to assist the cook. He therefore claims a violation of rules 96 and 97 of the collective bargaining agreement, both of which follow.

"Rule 96 - Wrecking Crew

Regularly assigned wrecking crews (not including engineers and firemen) will be composed of Carmen, and will be paid for such service under rule 7.

"Meals and lodging will be provided by the Carrier while crews are on duty in wrecking service. When needed, men of any class may be taken as additional members of wrecking crews to perform duties consistent with their classification."

"Rule 97 - Make up of Wrecking Crews.

When wrecking crews are called for wrecks or derailments outside yard limits, the regularly assigned crew will accompany the outfit. For wrecks or derailments within yard limits, sufficient carmen will be called to perform the work."

It is the contention of the Carrier that the claimant is not a member of the regular wrecking crew, that such a wrecking crew consists of

- 1 - Crane operator
- 1 - Deck man and Ass't. Crane Operator
- 1 - Cook
- 4 - Ground men
- 1 - Wreckmaster
- 8 - Men

Carrier further defends on the grounds that because of extensive track damage, a number of section men were working at the wreck scene, all of whom had to be fed and that a section man was used to assist the cook, but that the feeding of section men does not come within the purview of the Carmen's Classification of Work rule.

As we view this record, we find no evidence submitted to the effect that Claimant, in his position, was a regularly assigned member of the wrecking crew. The rules of the collective bargaining agreement, upon which reliance was made by Claimant, do not specify the number of men constituting a regularly assigned wrecking crew. Carrier has come forth with that information, which remains unrefuted in this record. We have no evidence that Claimant had any contractual right to the work performed. We must therefore deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: E.A. Killen
Executive Secretary

Dated at Chicago, Illinois, this 30th day of May, 1973.