

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

Parties to Dispute: (System Federation No. 117, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(The Western Pacific Railroad Company

Dispute: Claim of Employees:

That under the Current Controlling Agreement, Carmen A. Phillips, M. Craven and G. Boles were used to perform duties of Carmen on emergency road service at Chillcoot Tunnel approximately 215 miles north and west of where they worked as regularly assigned Repair Track Carmen at Stockton, California. This took place on January 9 and 10, 1972. They were transported by Carrier's owned truck. The Carrier paid them as wrecking service employees, and we contend that they were paid improperly.

That accordingly, the Carrier be instructed to pay Carmen A. Phillips, M. Craven and G. Boles double time for work performed beyond sixteen (16) hours which was four (4) hours apiece from 11:30 P.M. on January 9, 1972 to 3:30 A.M. January 10, 1972. This amounts to two (2) hours at straight time rate for each of the three Carmen for the difference of what they were paid and what they should have been paid.

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.

Claimants, all carmen, performed their regular assignments at Carrier's Stockton Repair Track on January 9, 1972 completing their tour

of duty at 3:30 P.M. At the end of the shift all were transported by truck to the scene of a derailment, arriving at the site, some 230 miles distant, at 11:30 P.M. They then worked on the site of the derailment until 3:30 A.M., January 10, 1972. For the service from 11:30 P.M. until 3:30 A.M. the men were compensated at the rate of time and one half.

Petitioner claims that the carmen should have been compensated at the double time rate for the four hour period specified above. This position is based on the contention that the work was covered under Rule 10 (a) Emergency Road Service and Rule 7 (e) which provides for a double time rate of pay for work beyond sixteen continuous hours of service. Rule 10 (a) states:

"Rule 10. Emergency Road Service: (As Revised September 1, 1949.) (a) An employe regularly assigned at a shop, engine house, repair track, or inspection point, when called for emergency road service away from such shop, engine house, repair track or inspection point, will be paid from the time ordered to leave home station, until his return for all service rendered in accordance with the practice at home station, and will be paid straight time rates for straight time hours and overtime rates for overtime hours for all time worked. All time waiting and traveling outside of assigned hours at home station will be paid for at one and one-half times pro rata rates."

The Carrier maintains that Claimants were selected to augment the wrecking crew at the derailment in accordance with Rule 115 (d) and were correctly compensated as provided in Rule 10 (d). Those rules provide:

"Rule 115. Wrecking Crews: (d) When needed, men of any class may be taken as additional members of wrecking crews to perform duties consistent with their classification." And

"Rule 10. Emergency Road Service: (As Revised September 1, 1949.) (d) Wrecking service employes will be paid under this rule, except that all time working, waiting or traveling on an employe's rest days and holidays and all time working, waiting or traveling outside of assigned hours at home station on other days will be paid for at the rate of time and one-half."

The Organization argues that Claimants were sent on emergency road work rather than to assist a wrecking crew. The rationale for this

position is that Claimants did not accompany the wrecker to the site of the derailment, that it was a very long distance from their regular assignment, and that they had never bid on or held an assignment as members of a wrecking crew.

The language of Rule 115 (d) seems entirely clear and unambiguous. Carrier has the unqualified right to select employes of any craft as additional member of wrecking crews, including carmen. Once employes are assigned to augment wrecking crew activity they become for purposes of compensation members of the wrecking crew; in this case Rule 10 (d) would be applicable.

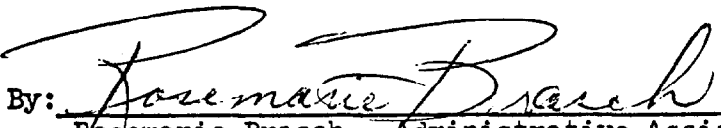
We find no merit in Petitioner's contentions.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By: 
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 17th day of April, 1974.