

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. 71, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Carmen)  
(  
( Duluth, Winnipeg and Pacific Railway Company

Dispute: Claim of Employees:

1. That in violation of the current agreement, the Carrier brought in a Burlington Northern Cline Truck No. 8096, along with crew consisting of a driver and two (2) Carmen, to rerail Duluth, Winnipeg and Pacific Railway Company Diesel Unit No. 3609 within the limits of the D. W. & P. West Duluth yard. The Carrier also improperly dispatched four (4) assigned wrecking crew members from West Virginia, Minnesota to West Duluth, Minnesota by highway motor vehicle.
2. That accordingly the Carrier be ordered to compensate West Duluth, Minnesota Carmen W. Madill, G. Michellizi, L. Spehar and W. Marciniak for four (4) hours at the punitive rate account a Burlington Northern cline truck and crew were used and were improperly augmented by the D. W. & P. assigned wrecking crew from West Virginia, Minnesota.

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 25, 1971 a diesel locomotive was derailed within the yard limits at West Duluth, Minnesota. Carrier leased a Burlington Northern off-track crane with a crew of three men to clear the derailment. In addition, Carrier dispatched four assigned wrecking crew carmen from West

Virginia, Minnesota (sixty miles from West Duluth) to assist in the rerailling operation.

The record indicates that the north lead track to the yard was blocked by the derailment and that an emergency situation existed. There is a practice of long standing on this property of using carmen assigned to the wrecking crew to work on derailments whenever a crane is used. Further, it is well established that Carriers may lease equipment from other railroads to assist at derailments such as this.

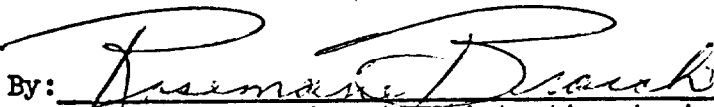
In view of the emergency situation and under the particular facts and circumstances in this dispute, the claim must be rejected, without establishing any precedent.

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.