

The Second Division consisted of the regular members and in addition Referee Nicholas H. Zumas when award was rendered.

Parties to Dispute: ( System Federation No. 7, Railway Employees'  
( Department, A. F. of L. - C. I. O.  
( (Carmen)  
( Burlington Northern, Inc.

Dispute: Claim of Employees:

1. That the Burlington Northern, Incorporated violated Rules 27A, 83 and 86 of the controlling Agreement in effect on the Burlington Northern, Incorporated, when they augmented the Superior wrecking crew by the use of Carrier's supervisors and officials at the Pengilly, Minnesota derailment April 24 through April 29, 1972.
2. That accordingly the Burlington Northern, Incorporated be ordered to additionally compensate Superior Carmen W. E. Alvar, S. Sawicki, W. J. Slowinski, H. J. Wood and W. Koski in the amount of sixteen (16) hours each at the time and one-half ( $1\frac{1}{2}$ ) rate for each claimed date April 24, 25, 26, 27, 28 and 29, 1972.

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.

A derailment of 57 ore cars occurred on the main line at Pengilly, Minnesota on claim date. A wrecker derrick, wrecking crew plus one additional carman was called from Superior, Wisconsin. After six days of work, service was restored.

The Organization contends that Carrier violated the agreement between the parties when it allowed and required supervisory personnel to assist the wrecking crew members with the work.

Carrier defends on the ground of emergency.

The Organization rejects the emergency defense for the reasons that it was never raised on the property, and even if it had been raised Carrier failed to prove by competent evidence that an emergency existed.

With respect to the first contention, the record shows that Carrier did in fact raise the question of emergency in the handling on the property.

With respect to the Organization's contention of failure to prove emergency, the Board agrees with the large majority of awards that a main line derailment in and of itself constitutes an emergency, and further proof is not required.

A W A R D

Claim is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By Rosemarie Brasch  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 7th day of April, 1975.