

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

Parties to Dispute: (System Federation No. 2, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(Missouri Pacific Railroad Company

Dispute: Claim of Employees:

1. That the Missouri Pacific Railroad Company had a derailment at Lesperance Street Yard, St. Louis, Missouri, July 10, 1977, and that they violated Rule 120 of the controlling Agreement, July 11, 1977, when they moved the Dupo, Illinois wrecker from Dupo, Illinois to St. Louis, Missouri and did not permit the assigned wrecking crew to accompany the outfit as required by Rule 120.
2. That the Missouri Pacific Railroad Company be ordered to compensate wrecking crew members R. Mueller, J. Pankey, W. Dickermann, G. Ham, and I. D. Cleveland in the amount of two (2) hours and forty (40) minutes at the punitive rate account said violation.

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.

Claimants, R. Mueller, J. Pankey, W. Dickermann, G. Ham, and I. D. Cleveland, all Carmen and all assigned as wrecking crew members at Dupo, Illinois, allege deprivation of their job in protecting the wrecker outfit, when, on the morning of July 11, 1977, Carrier dispatched the wrecker crane to Lesperance Street Yards, in St. Louis, Missouri one hour prior to dispatching the Claimants to the same location via a truck.

The instant claim arises as a result of a derailment of two freight cars in the Lesperance Street Yards on the evening of July 10, 1977. As the derailment did not block the main line, Carrier waited till the following morning, July 11, 1977, before ordering the Dupo wrecking crane and crew to St. Louis, Missouri. The wrecker crane departed from Dupo, Illinois prior to 6:00 A.M. while the Claimants were directed to go to the Lesperance Street Yards when they reported in at 7:00 A.M. for their regularly scheduled tour of duty.

The Organization asserts that the Lesperance Street Yards lies outside the Dupo, Illinois facility's yard limits and therefore, the Carrier was in violation of that part of Rule 120 which provides:

"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."

It is the Organization's position that since the derailment occurred outside the yard limits at Dupo, Illinois, the Claimants should have been called out by the Carrier at the time the wrecker crane was dispatched so as to allow them to accompany the outfit as provided for in Rule 120.

The Carrier, on the other hand, maintains that, since the Dupo, Illinois Yard and the Lesperance Street Yards are both part of the greater St. Louis Terminal Area, the derailment which occurred on July 10, 1977, was within yard limits. In support of its position, the Carrier cites Second Division Award 7744 which in essence construed the meaning of the language, "within yard limits" as not confined to the yard where the wrecker is stationed. The Carrier takes the position that nothing in Rule 120 requires that wrecking crew members "accompany the outfit" to wrecks within yard limits. With respect to Carrier's position, Rule 120 in reference to derailments within yard limits reads in relevant part as follows:

"For wrecks or derailments within yard limits, a sufficient number of carmen and helpers on duty will be used to perform the work. If a sufficient number of carmen and helpers are not on duty, a sufficient number of the wrecking crew will be called, if available."

We believe it is incumbent upon both parties to provide adequate and sufficient evidence to support their respective positions. We note the Organization has submitted several exhibits which allegedly establish that the Dupo Yards and the Lesperance Street Yards are not within the same switching limits. However, since this evidence was not submitted by the Organization during the handling of the claim on the property, we must declare such evidence to be improperly before us for consideration. But, even if such evidence were properly before us, we note that switching limits, for tariff purposes, are not necessarily the same as yard limits, for operating purposes, and Rule 120 refers to "yard limits". As to the evidence submitted by Carrier consisting solely of a map of the greater St. Louis area showing the various yards within that terminal complex but with no identity of whether switching limits are common or different for the various yards, we deem such evidence as lacking probative value in countering the Organization's assertion that the two yards are not within the same yard limit territory.

Upon a thorough examination of the record, we find the evidence presented by both parties neither adequate nor sufficient to support their respective positions and therefore we are unable to arrive at an award dispositive of the issue before us. We therefore remand the central issue regarding the determination of yard limits back to the parties. In doing so, we direct the parties to fully investigate this matter by making a joint, on the site check if that is the only way it can

be accomplished and to exchange any and all evidence regarding the yard limit logistics, if any, involved in the St. Louis Terminal area. We advise the parties to take into account the fact that it is not uncommon in larger metropolitan areas to have several different yards within one yard limit. Finally, and without prejudice to either party's position, we award to each of the Claimants compensation in the amount of one hour at the pro rata rate of pay.

A W A R D

Claim sustained, in part, as set forth above.

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 16th day of January 1980.