

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

Parties to Dispute: { Brotherhood Railway Carmen of the United States and Canada  
{  
{ Soo Line Railroad Company

Dispute: Claim of Employes:

1. The Soo Line R.R. Co. violated Rule 7, Paragraph 4 and 5 and Rule 10, Paragraph 5 of controlling agreement and past practice, when proper compensation of pay was not allowed when Superior, Wis. wrecking crew were called for more than one hour before their regular assigned hours, 7:30 AM to 4:00 PM while working derailments at Denham and Isle, Minn. July 4, 5, 7, 8 and 9, 1977.
2. That accordingly the Soo Line R.R. Co. be ordered to compensate the Superior Shops, Wis. wrecking crew members namely:

Carmen;            Roger Pearson            Wrecker Foreman  
                         July 4, 5, 7 and 8, 1977

                         Rudy Aspdal            Ground Crew  
                         July 4, 5, 7 and 8, 1977

                         Kenneth Stein            Ground Crew  
                         July 4, 5, 7 and 8, 1977

                         Ronald Klindt            Ground Crew  
                         July 4, 5, 7 and 8, 1977

                         Patrick McGrath            Ground Crew  
                         July 4, 5, 7 and 8, 1977

                         William Groskreutz            Engineer  
                         July 4, 5, and 8, 1977

                         Mark Steffen            Wrecker Fireman  
                         July 4, and 7, 1977

                         Roger Johnson            Cook  
                         July 4, 5 and 9, 1977

in the amount of 1 hour and 10 minutes at the carmen's time and one-half rate of pay each, for each date shown.

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 July 4, 5, 7, 8, and 9, 1977, the Superior Wisconsin wrecking crew was working a derailment at Denham and Isle, Minnesota. The eight members of the wrecking crew (claimants in this case) were called more than one hour before their regular assigned time, 7:30 a.m. to 4:00 p.m. Carrier paid Claimants at time and one-half for all time worked prior to their regular starting time of 7:30 a.m., 1½ hours each day. Claimants allege that they should have been paid a call under the call rule of 2 and 2/3 hours at time and one half because they were called and used less than two hours.

Carrier argues that Rule 10, paragraph 5, covers wrecking crews. The organization contends that Rule 7, paragraphs 4 and 5, cover claimants in this case, whether they be wrecking crew members or not. The organization also argues that a past practice of paying a call to carmen called out for less than two hours work in similar situations has been observed by carrier. Carrier denies that a bona fide past practice exists or has in the past existed on this point.

At the heart of this case is a dispute over contract interpretation. The board concludes that in such a case, specific language takes precedent over general language found elsewhere in the contract.

Rule 7, Paragraph 4, states that employes who are called or required to report to work will receive four hours straight time pay as a minimum call payment. It is very clear why such a clause was written into a contract. The organization wanted to guarantee its members that if carrier called them to work on an emergency basis or for a special job, they would at least receive four hours pay for their trouble. This concept is understandable and has become accepted practice in most industries, both public and private.

For whatever reason, however, the parties to the schedule agreement here in dispute did not choose to include every employe under Rule 7-4. They wrote a special rule to cover wrecking service employes. Rule 10, paragraph 5, is the specific rule in this instance. The parties clearly specified in Rule 10 that wrecking service employes will be paid for all time working beyond the recognized straight time hours at time and one half. Why the parties agreed to such a system need not be discussed. The fact is that they did. They wrote this clause in a contract and they must live with it.

If this board were to adopt the organization's position, it would ignore the clear words of Rule 10 that specify how wrecking service employes will be paid. This Board has no authority to make such a finding.

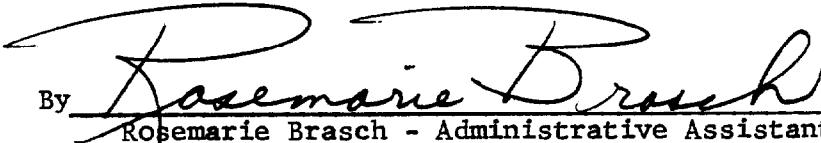
A W A R D

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 8th day of October, 1980.