

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr., when award was rendered.

(Brotherhood Railway Carmen of the United States and Canada
Parties to Dispute:(
(Baltimore and Ohio Railroad Company

Dispute: Claim of Employees:

1. That Carrier violated the controlling Agreement when on the date of March 19, 1979, they allowed an outside contractor to complete the rerailling of cars that had previously derailed on the date of March 15, 1979 at Garrett, Pennsylvania, utilizing six (6) outside contractor's groundmen and one (1) Foreman, performing work that accrued specifically and unequivocally to the members of the Cumberland "assigned wrecking crew", by virtue of the provisions of the December 4, 1975 Agreement, as well as Rules 29, 138 and 142 of the Shop Crafts' Agreement.
2. That the Carrier be ordered to compensate the following claimants for their losses arising out of this incident; Carmen, L. B. Mathias, A. T. Rice Jr., P. H. Sibley, W. C. Shaffer, G. R. Shafferman, S. E. Teets, A. F. Hinkle, J. E. Bierman, J. E. Price, H. E. Fraley, and W. D. Rawsley, each, for eight (8) hours pay at the time and one-half rate; L. D. Saville, R. H. Schriver, and E. F. Ellis, each, for fifteen (15) hours pay at the time and one-half rate.

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.

This dispute involves the Carrier's use of an outside contractor and a wreck crew in connection with a derailment at Garrett, Pennsylvania and the Carrier's failure not to use the Claimants, consisting of another wreck crew, in addition.

While the particular circumstances are difference, the applicable rules and principles are identical to those considered by the Board in Award No. 9127. and the Board reaches the same conclusion.

A W A R D

Claim denied.

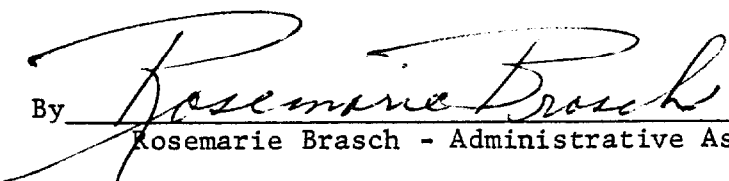
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Award No. 9128
Docket No. 8899
2-B&O-CM-'82

NATIONAL RAILROAD ADJUSTMENT BOARD
BY Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By


Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 16th day of June, 1982.