Form 1 NATIONAL RAILROAD ADJUSTMENT BOARD Award No. 9347
SECOND DIVISION Docket No. 8834
2-C&NW-CM-'83

The Second Division consisted of the regular members and in addition Referee Carlton R. Sickles when award was rendered.

Parties to Dispute: (Brotherhood Railway Carmen of the United States and Canada
(Chicago and North Western Transportation Company

Dispute: Claim of Employes:

1. Carrier violated the current agreement when it failed to properly call and compensate Carman B. Lambrecht on February 9, 1979, when Carrier assigned Carman R. Tasto to assist in rerailing snow plow CNWX 200639 at Breda, Iowa.

2. That the Chicago and North Western Transportation Company be ordered to compensate Carman B. Lambrecht for ten and one-half (10½) hours at time and one half rate of pay.

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.

The Claimant alleges that he should have been called to service in the rerailing of a snow plow in his capacity as a relief 400 truck driver, since the regularly-assigned 400 truck driver was absent. (The incident occurred on Claimant's rest day.)

The Carrier, instead, used another Carman not so designated. The task took ten and one-half hours, and the Claimant seeks ten and one-half hours' pay at time and one-half.

There is no disagreement as to whether the Carman used as a truck driver was a qualified truck driver, but it is apparent that only the Claimant held job assignment 073 Relief Truck Driver.

The Claimant relies upon Sections 3 through 6, Rules 126 and 127 as revised by memorandum of March 1, 1976 and interpreted by Carrier's letter of February 18, 1976.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Acting Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 26th day of January, 1983.

Sections 3 through 6, Rules 126 and 127, apply to the use of carmen in wrecking service as part of wrecking crews.

Claimant also cites Rule 10 which is applicable to emergency road work.

In essence, Claimant alleges that the duties performed were emergency road work away from the home station in the nature of wrecking service.

The Carrier refutes the contention of the Claimant alleging that there was no emergency involved making Rule 10 applicable, but rather the applicable rule is 137 which covers the normal repair and inspection of cars away from the shop.

It is Carrier's position that the work performed did not involve an emergency and further was not wrecking crew service.

On the day involved, the Carrier sent carmen to Carroll to repair NAHX 50520 and when that work was completed, the crew went to Breda to rerail CNWX 200639, a snow plow.

The Carrier alleges that if the rerailing were an emergency, then the first task would have been delayed until its completion of the rerailing function.

Carrier would apparently support the claim if emergency road service or wrecking service were involved.

Carrier admits that the truck involved is classified as a "wrecking truck", but alleges that this fact alone does not mean that wrecking service was involved.

Award 4682 (Second Division) has been cited to support the contention that a derailment does not necessarily require the services of a wrecking crew. In that matter, the use of a wrecker was not necessary to the rerailment.

Award 6177 (Second Division) held that a wrecking crew need not be assigned to a derailment when no wrecking outfit is needed.

This Board accepts the principle that wrecking service would have to be involved if the Claimant is to succeed.

Neither party to the grievance has described in detail the nature of the repair service at the first stop and the details involved in the rerailing of the snow plow. The nature of the service depends upon the specific functions performed.

From the record, we cannot determine if a wrecking crew was dispatched, what the nature of the rerailing was, what other circumstances, if any, would establish the existence of an emergency.

The Board finds that both parties to the grievance were not clear or complete in their description of the events or the arguments for their positions.

Under these circumstances since the burden is on the Claimant to establish the facts necessary to support his contentions, the Board will dismiss the claim.