

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
{ St. Louis-San Francisco Railway Company

Dispute: Claim of Employees:

1. That the St. Louis-San Francisco Railway Company violated the provisions of the controlling Agreement when it improperly assigned a junior Carman to accompany Carrier wrecking crew to a derailment at Boswell, Oklahoma, in place of senior Carman L. D. Gately.
2. That accordingly the St. Louis-San Francisco Railway Company be ordered to compensate Carman L. D. Gately twenty eight (28) hours at time and one half Carman/Inspector's rate of pay as follows.

Monday - May 21, 1979 - 8 a.m. to 11:59 p.m.

Tuesday - May 22, 1979 - 12 a.m. to 10:00 a.m.

Wednesday - May 23, 1979 - 6:30 a.m. to 8:30 a.m.

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 employees 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.

Claimant refutes the allegation that the Carrier attempted to contact the Claimant before calling the next member of a wrecking list. Claimant seeks compensation for the time lost.

There is no question that an emergency existed and that the emergency unit should be dispatched as soon as possible.

The Carrier alleges that an attempt was made to contact the Claimant by phone and by radio on the property shortly after his normal quitting time and was informed by another carman that the Claimant had left the property by automobile. Nine months later, this carman modified his story.

Carrier's position is that it believed that Claimant was unavailable and then contacted the next carman on the list. The Claimant alleges he was still on the property when the emergency unit was dispatched.

There is confusion as to the specific times of various events as alleged by the parties, each to support its argument.

This Board is unable to resolve the conflicting testimony and following a long line of previous Awards will dismiss the claim.

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 - Administrative Assistant

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