

The Second Division consisted of the regular members and in addition Referee John B. LaRocco when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen of the United States
(and Canada
(
(Baltimore and Ohio Railroad Company

DISPUTE: CLAIM OF EMPLOYES:

No.1 That the Carrier violated the controlling Agreement by allowing the Hulcher Emergency Service, the Chesapeake & Ohio employees and/or Baltimore & Ohio carmen, to perform a wrecking service on July 10 and 11, 1980, at Mansfield, Ohio, in the place of the regular assigned crew located some eighteen (18) miles from the derailment site at Willard, Ohio, in violation of Rules 141, 142 and 142 1/2 of the Shop Crafts Agreement.

No.2 That the Carrier be ordered to compensate monetary loss on July 10, 1980 to Carman Claimants R. J. Long, D. P. Rose, G. K. Colich, P. W. Long, A. J. Long, E. W. Bannworth, F. W. Long, and C. C. Capelle for six (6) hours' pay each at time and one-half rate and R. J. Mahl and L. E. Masterson for ten (10) hours' pay each at time and one-half rate; on July 11, 1980, R. J. Long, D. P. Rose, G. K. Colich, A. J. Long, E. W. Bannworth, P. W. Long, F. W. Long and C. C. Capelle for two (2) hours' pay each at time and one-half and R. J. Mahl and L. E. Masterson for six (6) hours' pay each at 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 employees involved in this dispute are respectively carrier and employees 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 Carrier properly called the regular assigned wrecking crew to perform wrecking service near Mansfield, Ohio on July 3, 1980. The crew cleared the right of way. A week later, the Carrier decided to replace the trucks on two cars, clean up some debris and recover any lading which could be salvaged at the derailment site. To accomplish these projects, the Carrier utilized an outside contractor and two shop cranes on July 10 and 11, 1980. The cranes were operated by two carmen from Newark, Ohio and two Chesapeake and Ohio carmen from Columbus, Ohio. In essence, the four carmen retrucked the derailed cars which had been left adjacent to the tracks on July 3, 1980.

Claimants were members of the regularly assigned wrecking crew stationed at Willard, Ohio. They claim that the Carrier should have called them to assist the outside contractor on July 10 and 11, 1980 pursuant to Rules 141, 142 and 142 1/2 of the applicable Agreement. According to the Organization, the work performed at Mansfield on the two days was the continuation of the wrecking operations which began on July 3, 1980. Replacing trucks and salvaging lading was wrecking work which had not been completed on July 3, 1980. The Organization also charges the Carrier with assigning work, exclusively reserved to Baltimore and Ohio carmen, to workers from another Carrier.

The Carrier contends that the work performed on July 10 and 11, 1980 was a salvage operation which was outside the scope of work exclusively reserved to the regularly assigned wrecking crew. The Carrier further argues that it complied with all rules by calling the two carmen from Newark to replace the trucks on the derailed cars. The outside contractor was used solely to recover freight which could be salvaged from the wreck.

The record discloses that the outside contractor and the carmen called by the Carrier did not perform any wrecking service on July 10 and 11, 1980. On the contrary, all wrecking service had been completed by the regularly assigned wrecking crew on July 3, 1980. Minor clean up operations, the removal of salvage and other incidental work such as retruckng cars previously moved from the right of way do not constitute wrecking service. Second Division Awards No. 4131 (Anrod) and No. 7084 (Twomey). Thus Claimants had no particular right to perform the work on July 10 and 11, 1980 merely because they were members of the regularly assigned wrecking crew.

However, the Carrier improperly allowed two carmen from a foreign carrier to perform work exclusively reserved to carmen employed by the primary Carrier. Instead of calling two Chesapeake and Ohio carmen, the Carrier should have assigned the work to two Baltimore and Ohio carmen. Therefore, two of the Claimants are entitled to sixteen hours of pay at the straight time rate. Claimant Bannworth was on vacation when the work was performed and, thus, he was unavailable for the assignment. We will remand this claim to the property for the parties to mutually determine which two of the remaining nine Claimants shall be compensated in accord with our decision.


A W A R D

Claim sustained, but only to the extent consistent with our Findings.

NATIONAL RAILROAD ADJUSTMENT BOARD

By Order of Second Division

ATTEST:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 14th day of December, 1983