

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12480
Docket No. 12039
92-2-90-2-170

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

PARTIES TO DISPUTE: (Brotherhood of Railway Carmen/Division of TCU
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(Elgin, Joliet and Eastern Railway Company

STATEMENT OF CLAIM:

1) That the Elgin, Joliet and Eastern Railway Company violated the current working Agreement when they did not call Carman J. Leigh out on overtime for wrecking service outside of Yard Kirk limits.

2) That the Elgin, Joliet and Eastern Railway Company be ordered to compensate Carman J. Leigh (hereinafter referred to as the Claimant) who was available, qualified and willing to perform the work for two (2) hours and forty-five (45) minutes at punitive rate of pay as required by Rule 50 and 97 of the current working Agreement.

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 employes 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 Claim involves an allegation that Claimant should have been called for wrecking service on June 15, 1989. The facts of record establish that the engine rerailling incident triggering the Claim occurred within yard limits. When engine rerailling activity occurs within yard limits Carrier, under the Agreement, has discretionary license to determine the type of equipment and number of Carmen to be dispatched to accomplish the work involved. In this Claim the Organization has not established that an insufficient number of Carmen were on the scene to complete the rerailling activity or that work subject to its Agreement was performed by outsiders. The Claim is without merit.

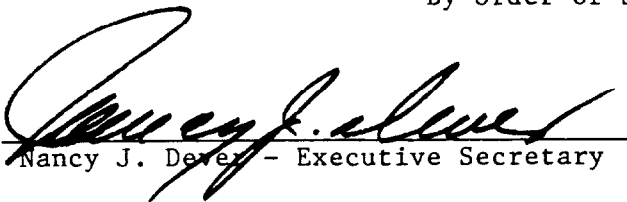
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A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:


Nancy J. Dever - Executive Secretary

Dated at Chicago, Illinois, this 18th day of November 1992.