

Form 1

NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION

Award No. 12570
Docket No. 12498
93-2-92-2-8

The Second Division consisted of the regular members and in addition Referee Eckehard Muessig when award was rendered.

PARTIES TO DISPUTE: (Brotherhood Railway Carmen/Division TCU
(
(Southern Pacific Transportation Company

STATEMENT OF CLAIM:

- "1. That the Carrier violated the terms of the controlling Agreement between the Southern Pacific Transportation Company and the Organization, Rules 15, 32, 33(a), 104 and 111(a), (b), effective April 16, 1942, as subsequently amended, and Article VII, (1) and (2) of the December 4, 1975 Agreement when they contracted employees covered by the Agreement of another carrier, D&RGW, to perform wrecking service on the SP-WL, compensating them by other than the provisions of Rule 15 and thereby infringing on the seniority rights of claimants due to the Carrier not maintaining the Ogden, UT wrecking crew at the number assigned as of the date of December 4, 1975 Agreement.
2. That accordingly, the Southern Pacific Transportation Company be ordered to compensate the claimants in the amount of eleven and one-half (11½) hours each at the time and one-half rate of pay for August 27, 1990 and that the Ogden, UT regularly assigned Relief Outfit Crew be restored to the number assigned as of the effective date of the December 4, 1975 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 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 claim arose as a result of a derailment of three engines at Lakeside, Utah on August 27, 1990. The Carrier contracted with the Denver & Rio Grande Western Railroad ("Contractor") to reraill the engines. It also assigned two of its Carmen (who were on duty at Ogden, Utah) to assist the Contractor. The Organization claims that the Claimants should have been recalled from furlough to do the work of rerailling the engines.

The Board has carefully reviewed the record developed on the property. The Board finds no contractual support for the claim at issue here.

The evidence shows that the wreck crew at Ogden, Utah, was abolished in 1986 and that the positions have never been restored. Moreover, since 1986, there has been no wreck equipment at Ogden. Under the circumstances of record, this Board has no authority to direct the Carrier to reestablish its wreck crew at Ogden. Moreover, under the circumstances, the Board finds no Rule support which requires that the furloughed employees should have been called for the temporary work.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest:

Catherine Loughrin
Catherine Loughrin - Interim Secretary to the Board

Dated at Chicago, Illinois, this 8th day of September 1993.