

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13473

Docket No. 13397

99-2-98-2-85

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

PARTIES TO DISPUTE: (**Brotherhood Railway Carmen Division**
(**Transportation Communications International Union**
(**CSX Transportation, Inc. (former Baltimore & Ohio**
(**Railroad Company)**

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

1. That the Carrier violated Rule 142 in the Agreement when they failed to call the assigned wreck crew members in Cincinnati, Ohio.
2. That the Carrier make whole the assigned wreck crew members for this violation of the Agreement rule and pay the time lost of five (5) hours time and one half to Carmen R. W. Barnett, R. Godbey and B. Wilson.”

FINDINGS:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee 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 were given due notice of hearing thereon.

On October 8, 1997, three on-duty Carmen were assigned to rerail a locomotive at an industrial site within the Cincinnati yard limits. The Organization alleges that a "regular assigned wreck crew" should have been called for this work.

The claim asserts a violation of Rule 142, which reads as follows:

"When wrecking crews are called for wrecks or derailments outside of yard limits, a sufficient number of the regularly assigned crew will accompany the outfit. For wrecks or derailments within yard limits, sufficient carmen will be called to perform the work." (Emphasis added)

The Organization does not dispute that the rerailing was performed "within yard limits" or that the Carrier had failed to utilize a "sufficient" number of Carmen. Thus, no support for the claim is found in Rule 142.

The Organization, however, connects Rule 142 with the "Hoesch Truck Call Procedure" effective January 1, 1994. The Carrier contests the continuing validity of this "Procedure" because the Hoesch wrecking equipment was removed from Cincinnati in 1995. In any event, the Procedure does no more than specify the required employees to be called when -- and only when -- "Hoesch truck [is] called out." Whether or not the Procedure remains in effect, it offers no support for calling the Claimants in this instance.

Second Division Award 13388, involving the same parties in a closely similar situation, reached the same conclusion as does the Board in this instance.

AWARD

Claim denied.

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ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to the Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Dated at Chicago, Illinois, this 24th day of November 1999.