

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

Award No. 13555

Docket No. 13428

00-2-99-2-19

The Second Division consisted of the regular members and in addition Referee Martin H. Malin when award was rendered.

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

STATEMENT OF CLAIM:

“Claim of the Committee of the Union that:

- 1. Carrier violated Rule 142 of the Agreement on January 1, 1998 when they failed to use Carmen to perform the wrecking work at Cementdale, OH and used an outside contractor.**
- 2. That the Carrier be ordered to pay C. Patton, W. Kincer, D. Roder and R. Johnson three (3) hours time and one half rate of pay for this violation.”**

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 January 21, 1998, Assignment Y22721 derailed one end of car TPIX 332 at Cementdate, Ohio, which is outside the Cincinnati yard limits. After sending two Cincinnati Carmen in an unsuccessful effort to rerail the car, the Carrier engaged the services of an outside contractor. The Organization contends that the Carrier violated Rule 142 by failing to call a number of Carmen equal to the contractor's four ground crew who worked at the derailment site. Rule 142 provides:

"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."

Under Rule 142, when a derailment occurs outside of yard limits, the Carrier is only obligated to call Carmen who are part of an assigned wrecking crew. There was no regularly assigned wrecking crew at Cincinnati. Therefore, the Organization failed to prove a violation of Rule 142. See, e.g., Second Division Awards 13008, 12954, 12874, 12873. Accordingly, the claim must be denied.

AWARD

Claim denied.

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 27th day of October, 2000.