

Form 1

**NATIONAL RAILROAD ADJUSTMENT BOARD
SECOND DIVISION**

**Award No. 13963
Docket No. 13852
08-2-NRAB-00002-080005**

The Second Division consisted of the regular members and in addition Referee William R. Miller when award was rendered.

**(Brotherhood of Railway Carmen Division of TCIU
PARTIES TO DISPUTE: (
(Springfield Terminal Railway Company**

STATEMENT OF CLAIM:

- “1. That the Springfield Terminal Railway Company violated the terms of our current Agreement, in particular Rule 30.2, when they failed to send two (2) Carmen with the Mobile Crane when they used it in wreck service.**
- 2. That accordingly, the Springfield Terminal Railway Company be required to compensate Carmen Brian Bertleson and Timothy Locke in the amount of eight (8) hours at the straight time rate of pay and three (3) hours at the overtime rate of pay. This is the amount they would have earned had the Carrier not violated the 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 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.

It is the Organization's position that on September 6, 2006, the Carrier sent two Supervisors to work on Cranes RC75 and RC 130 to load wrecked cars onto flat cars at Northern Maine Jct. in violation of Rule 30.2 (Wreck Crew) instead of calling the Claimants. The cars in question were PROX 91512 loaded on flat car OTTX 93341, PROX 91526 loaded onto flat car OTTX 97343 and CTGX 55780 which was loaded onto flat car OTTX 97731. The Organization argued that Supervisors should supervise and not perform work that accrues to Carmen by Agreement.

The Organization further argued in response to Carrier's argument that this was not a wrecking operation that the loading of wrecked cars onto flat cars in this instance was wrecking work and the fact that the Carrier chose not to load the wrecked cars onto flat cars when the derailment occurred, does not mean it still was not a wrecking operation.

It is the position of the Carrier it did not violate the Agreement. It argues that the incident in question was not a wrecking operation and the requirements of Rule 30.2 do not apply because the loading of the wrecked cars was not at the time of the derailment, but was performed at a later date. Additionally, it states that Supervisors rendered only minimal assistance that was incidental to the operation, as was the customary practice.

The Board has thoroughly reviewed the record and is not persuaded by the Carrier's argument that the loading of wrecked cars at a derailment site on a later date does not qualify as a wrecking operation in accordance with Rule 30.2. However, this case will not be resolved on whether or not the incident in question was a wrecking operation because there is no evidence in this record as to the exact work performed at the site by the Supervisors. The Organization alleged the following: "...Carrier allowed two (2) Supervisors to perform the work of Carmen at Northern Maine Jct.", but there was no proof or documentation offered such as employee statements explaining what work the Supervisors allegedly did. There is nothing in the record effectively rebutting the Carrier's argument that the

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Supervisors rendered minimal assistance in accordance with the customary practice on the property other than assertions.

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 23rd day of October 2008.