

NATIONAL RAILROAD ADJUSTMENT BOARD

THIRD DIVISION

Francis X. Quinn, Referee

PARTIES TO DISPUTE:

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

STATEMENT OF CLAIM: Claim of the System Committee of the Brotherhood that:

(1) The Carrier violated the Agreement when it used two (2) bridge gangs from the Cincinnati Division to repair Bridge No. 78 on the EK Division instead of recalling and using cut-off employees on the EK Division for the work. (System File E-265-2/1-3.)

(2) The claimant EK Division B&B employees (hereinafter identified) each be allowed pay at their respective time and one-half and double time rates for the same number of time and one-half and double time hours consumed by the Cincinnati Division employees in the performance of the work referred to in Part (1) of this claim.

Claimants are:

C. Horn No. 3	I.D. No. 58866	J. Patrick No. 2	I.D. No. 61788
O. Bellamy	I.D. No. 58824	C. E. Arrowood	I.D. No. 61824
M. H. Spencer	I.D. No. 58203	H. Childers	I.D. No. 40763
W. Strong No. 2	I.D. No. 36541	V. T. Jeffrey	I.D. No. 59788
F. Horn	I.D. No. 60599	W. Maupin	I.D. No. 63185
R. Jewell	I.D. No. 44011	J. M. Jewell, Jr.	I.D. No. 63342
B. Palmer No. 2	I.D. No. 60972	D. Estes	I.D. No. 58998
J. Napier	I.D. No. 57652	M. Combs	I.D. No. 63408

EMPLOYEES' STATEMENT OF FACTS: The claimants are cut-off employees who hold seniority within their respective classes of the B&B Sub-department. Their seniority is confined to the EK (Eastern Kentucky) Division in accordance with the provisions of Rule 4, which reads in pertinent part:

"SENIORITY DISTRICTS

The seniority rights of employees are confined to their respective seniority districts, as follows:

* * * * *

railed at 8:40 P. M. In the meantime, B&B Supervisor R. Tharp and Assistant Supervisor E. B. McHargue, who were located at Latonia, Kentucky, 168 miles north of the accident, were notified of the accident and they left immediately to determine the extent of the damage and decide what repairs should be made to the bridge. When they saw the extent of the damage, they knew that repairs would have to be made as quickly as possible. They knew that the closest B&B gangs were at Livingston, Kentucky, and Paris, Kentucky, and since these were the nearest gangs they were notified to report to the bridge immediately. There was such an immediate need for their services that the gangs did not travel by camp car but were transported along with their tools by truck.

The wreck occurred on the Eastern Kentucky Division seniority district. The two gangs sent to help at the bridge were Cincinnati Division Seniority District gangs. Employees claimed that this violated the agreement and filed claim for furloughed B&B men on the Eastern Kentucky Seniority District. Carrier saw no basis for the claim and it was, therefore, declined.

Correspondence exchanged in connection with the claim is shown by Carrier's attached Exhibits A through H.

There is on file with the Third Division a copy of the current working rules agreement and it, by reference, is made a part of this submission.

(Exhibits not reproduced.)

OPINION OF BOARD: The claim herein is in behalf of furloughed employees of the Carrier's Eastern Kentucky Division because two Bridge and Building gangs from Carrier's Cincinnati Division were used at site of derailment on the Eastern Kentucky Division.

The facts herein are comparable to those in Awards Nos. 15846 and 17795 involving the same parties and the same Agreement. Those Awards are controlling and the claim herein will be denied.

FINDINGS: The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds and holds:

That the parties waived oral hearing;

That the Carrier and the Employees involved in this dispute are respectively Carrier and Employees within the meaning of the Railway Labor Act, as approved June 21, 1934;

That this Division of the Adjustment Board has jurisdiction over the dispute involved herein; and

That the Agreement was not violated.

AWARD

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of THIRD DIVISION

ATTEST: S. H. Schulty
Executive Secretary

Dated at Chicago, Illinois, this 11th day of September 1970.

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