

SPECIAL BOARD OF ADJUSTMENT NO. 279

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
versus
UNION RAILWAY COMPANY OF MEMPHIS

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

- (1) The Carrier violated the effective Agreement by failing to assign Maintenance of Way Department Welders to the performance of rail cutting in Sargent Yard at Memphis on January 13, 1958 account of a derailment.
- (2) Maintenance of Way Department Welder P. L. Howdeshell and Helper W. E. Oliver be now compensated for two (2) hours and forty (40) minutes at their time and one-half rate on account of this violation of the Agreement.

FINDINGS: It appears that in the process of rerailing an engine it was discovered after the engine had been raised by the wrecker that two small sections of rail were so badly twisted in the derailment that the engine could not be rerailed without replacement thereof. The carrier had not foreseen the necessity for any cutting of rail so in that emergency it directed a carman welder to cut two pieces of rail for installation by track forces.

Such utilization of an employe on the scene to meet an unforeseen necessity in that emergency situation is not a violation of the agreement but necessary to and consequently a part of the rerailment of the engine.

AWARD: Claim denied.

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(s) Dudley E. Whiting
Dudley E. Whiting - Chairman

(s) A. J. Cunningham
A. J. Cunningham - Employe Member

(s) G. W. Johnson
G. W. Johnson - Carrier Member

St. Louis, Missouri
June 5, 1959