

The Second Division consisted of the regular members and in addition Referee Don J. Harr when award was rendered.

Parties to Dispute: (System Federation No. 154, Railway Employees'
(Department, A. F. of L. - C. I. O.
((Carmen)
(
(Illinois Terminal Railroad Company

Dispute: Claim of Employees:

1. That under the current agreement the Carrier improperly used other than Carmen (wrecking crew members) to perform wrecking service near Edwardsville, Illinois on February 26, 1970.
2. That accordingly, the Carrier be ordered to additionally compensate Wrecking Crew Members E. Quade, Larry Hernandez, L. E. Crawford, A. R. Houston, Leonard Hernandez and A. D. Gaines in the amount of fourteen (14) hours each at the time and one-half rate.

Findings:

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

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe 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 waived right of appearance at hearing thereon.

At approximately 11:00 P.M., February 25, 1970, a road train crew had a derailment at a point known as Bluff Junction. Since the derailment blocked Carrier's mainline they contended that an emergency existed and called an outside contractor to perform the necessary work.

Carrier maintains a wrecking crew at Alton, Illinois, about eight miles from the scene of the derailment. The employes contend that the regularly assigned wrecking crew members were available for service and the Agreement was violated when persons other than the wrecking crew were used to perform the work.

The employees rely upon Rules 127 and 128 of the effective Agreement:

Rule 127 reads:

"Regularly assigned wrecking crews, including engineers and firemen, will be composed of carmen, and will be paid for such service under Rule 10."

Rule 128 reads:

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

The Employes also rely upon the Memorandum of Understanding dated March 21, 1960. Paragraph 2 of that Memorandum reads:

"In the event of derailment of wrecks on Illinois Terminal Railroad Company property, XM 52 wrecker truck will be dispatched from Federal, Illinois with two Carmen assigned to XM 52 plus not less than one member of wrecking crew, more if needed."

The Carrier points out, in its's Submission to the Board, that on September 1, 1970, the Organization served a Section 6 Notice upon the Carrier requesting that the Carman's Classification of Work Rule be amended to specifically provide that wrecking service was reserved exclusively to Carmen. They also asked to amend Rule 128 to provide for a penalty payment when other than members of wrecking crews performed wrecking service.

We believe that the serving of the Section 6 Notice was recognition by the Organization that the existing rules did not give Carmen the exclusive right to wrecking service. The Claim is not supported by the existing rules and there is no evidence in the record that Claimants had an exclusive right to the work in question. See Second Division Awards 4286, 4825, 4826, 5574 and 6286.

We will deny the Claim.

A W A R D

Claim denied.