

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 25

Heard at Montreal, Monday, February 14, 1966

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

THE BROTHERHOOD OF RAILROAD TRAINMAN

DISPUTE:

Claims of Conductor D. J. MacKenzie and crew for two run-around payments at Boston Bar, November 26 and 27, 1963.

JOINT STATEMENT OF ISSUE:

On November 26, 1963 a washout occurred 6.3 miles west of Boston Bar, B.C. Conductor Bonthron and crew were called at Boston Bar to man a work train handling material to make track repairs. In the course of the work, it was necessary for the work train on two occasions to move into Boston Bar and return to the work site. Conductor MacKenzie and crew who were off duty at Boston Bar submitted two claims for payment of 100 miles each on the basis that, under article 3, clause (f) of the Conductors' and Trainmen's agreement they were run around on each of the two occasions when Conductor Bonthron and crew returned to and left Boston Bar after commencing duty.

The Company declined payment of the claim.

FOR THE EMPLOYEES:

(SGD.) H. O. WALSH
GENERAL CHAIRMAN

FOR THE COMPANY

(SGD.) E. K. HOUSE
ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

R. St Pierre – Labour Relations Assistant, Montreal
A. D. Andrew – Senior Agreements Analyst, Montreal
R. J. Wilson – Senior Agreements Analyst, Montreal

And on behalf of the Brotherhood:

H. C. Walsh – General Chairman, Winnipeg

AWARD OF THE ARBITRATOR

The facts in this matter disclosed that on November 26, 1963, a washout occurred 6.3 miles west of Boston Bar, B.C. Conductor Bonthron and crew were called at Boston Bar to man a work train handling material to make track repairs. In the course of that work it was necessary for the work train on two occasions to move into Boston Bar and return to the work site. Conductor MacKenzie and crew who were off duty at Boston Bar submitted two claims for payment of 100 miles each on the basis that under article 3(f) of the Conductors and Trainmen's agreements, they were run around on each of the two occasions when Conductor Bonthron and crew returned to and left Boston Bar after commencing duty.

As indicated in the Joint Statement of Issue, the question is whether the return of a work train to its point of departure for any reason automatically brings into effect article 3(f). It reads:

Conductors in chain gang regularly set up will be run first in first out of terminal points on their respective sections.

Further:

All such conductors ready for duty so run around will be paid one hundred (100) miles each run around, retaining their original standing on train board.

There was no dispute of the fact that originally the proper crew was selected for this assignment. Conductor Bonthron and crew came on duty at 17:45.K, November 26 and continued in work train service from that time until 6.30K, November 27, when they "tied up" at Boston Bar.

Next in standing on the pool crews of the Yale Subdivision at Boston Bar were the claimants in this matter.

Mr. St. Pierre told that when the washout occurred 6.3 miles west of Boston Bar, to effect repairs, rock and gravel fill had to be unloaded into the washout. Carloads of this material were on hand in Boston Bar yard, so a work train was ordered out for that purpose. It was said that due to the nature of the work only a limited number of cars of rock could be handled at one time because of the unloading feature. This, together with the lack of sidings between Boston Bar and mileage 6.3, made it necessary for the work train to return to Boston Bar on two occasions, bringing back empty cars and taking out more loads.

When the work train returned on the first of these occasions, for that purpose, Mr. Walsh declared, the grievors were entitled to be assigned on the return trip or to be paid for the run around.

Mr Walsh relied upon a previous decision of this Arbitrator, [CROA] **No. 3**, that he considered was similar in principle.

Mr. Walsh also reasoned that article 5, rule 20, clause (a), dealing with promotions of conductors, supported his reasoning that no distinction was to be made between work trains and through freight service. It reads:

The promotion of conductors will be from through freight to way freight, way freight to mixed and from mixed to passenger.

For the Company Mr. St. Pierre's contention was that work train service is separate and distinct from through freight service, although admitting that unassigned work trains are manned by pool crews.

The normal function of work trains, it was claimed, is to perform maintenance work as required. They operate within prescribed limits and between prescribed times so as not to conflict with the movements of revenue freight and passenger trains. Unlike through freight trains, work trains have no designated direction such as "eastward" or "westward" but may move in either direction within the prescribed limits of their operation.

Mr. St. Pierre maintained that from the time Conductor Bonthron and crew reported to man this assigned work train, they entered work train service and became governed by article 4 of the Conductors' and Trainmen's Agreements.

Article 4 of both agreements appears under the heading:

Rates and Rules for Work Trains, Construction, Helper, Pusher and Pile Driver Service.

Article 3 in both Conductors' and Trainmen's Agreement is headed:

Rates and Rules for Through Freight Conductors

Rates and Rules for Through Freight Trains

As stated, it is under article 3, clause (f) of these agreements that this claim is made.

Dealing first with Mr. Walsh's submission that [CROA] **Case No. 3** previously referred to is of governing importance, the immediate distinction to be drawn is that matter dealt with an original assignment of crews. Clearly an error had been made by ignoring the first crew registered on the pool board. That, of course, is not the matter to be determined in this problem. To make [CROA] **Case No. 3** of any value in this consideration, Conductor Bonthron and his crew would not have been assigned.

A study of the applicable provisions convinces that article 4 makes no provision for a run around. It is clear the parties recognized the necessity to make special provision for the unusual demands made upon a work train, as distinguished from the requirements of operation of a through freight train. While originally in the unassigned freight service pool, and therefore governed by article 3, Conductor Bonthron and crew when called for work train service undoubtedly became subject to what the parties have mutually agreed upon for such service as outlined in article 4. That article contains no reference to 3 (f), as would be necessary in order to grant what is sought by this application.

For these reasons this application must be dismissed.

(signed) J. A. HANRAHAN
ARBITRATOR