

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 64

Heard at Montreal, Monday, April 10th, 1967

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF RAILROAD TRAINMEN

DISPUTE:

Claim of Conductor G.F. Taylor and crew for additional 17 miles at through freight rate, January 17, 1966.

JOINT STATEMENT OF ISSUE:

On January 17, 1966, Conductor G.F. Taylor and Brakemen D.J. Bucknell and R.J. Fontaine manned Train No. 411 from South Parry to Capreol, Ont. On arrival at Suez, which is approximately 2.7 miles from the main track switch connecting with Capreol yard track, Train No. 11 entered the siding in order to clear an opposing train, after which Train No. 411 proceeded to Capreol.

For the service performed Conductor Taylor and crew submitted time return in the amount of 164 miles at through freight rates and 6 miles at way freight rates, showing final terminal time from 2335 (the arrival time at Suez) to 0135 (the off-duty time at Capreol). In making payment the Company reduced the miles to 147 miles at through freight rates and 6 miles at way freight rates, allowing final terminal time from 0100 (the arrival time at the main track switch connecting with Capreol yard track) to 0135.

The employees subsequently submitted claims for payment of 17 miles each at through freight rates of pay (the difference between the miles claimed and the miles paid).

Payment of these claims for 17 miles was declined and the Brotherhood alleges that in so doing the Company violated article 10, rule (b) of the collective agreement.

FOR THE EMPLOYEES:

(SGD.) G. R. ASHMAN
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
A. J. DelTorto	– Labour Relations Assistant, Montreal
R. Wilson	– Labour Relations Officer, Toronto

And on behalf of the Brotherhood:

G. R. Ashman	– General Chairman, Toronto
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AWARD OF THE ARBITRATOR

As indicated in the Statement of Issue the principal matter to be determined in this claim is whether the station at Suez, which is approximately 2.7 miles from Capreol, the destination of this crew, should be considered part of Capreol terminal.

The facts established that on approaching the signal at Suez this crew were contacted by radio-telephone by both the Yardmaster and Train Dispatcher, advising them to take the siding at Suez as the yard was congested. Instructions also stated that train #310 would not be ready to leave Capreol for an hour or more. This latter train left Capreol at 12.50 a.m. Freight train #411, on which this crew were assigned, was held at Suez from approximately 11.35 p.m.

This claim was based on the final terminal time rule, article 10(b). It was said the language pertinent to this claim is contained in the first five lines of that article:

Final terminal time will be paid for on the minute basis at pro rata rate (each 4.8 minutes to count as one mile) computed from the time engine reaches designated main track switch connecting with the yard track.

The last sentence of this article was also considered important by the representative of the Brotherhood:

Should train be delayed at semaphore, yard limit board or behind another train similarly delayed, time shall be computed from the time the engine reaches that point until time conductor registers off duty.

It was contended for the claimants that the home signal at Suez is a semaphore within the meaning of that word as contained in article 10(b). Therefore, the foregoing sentence "Should train be delayed ..." intended that crews should not be unduly delayed at the objective terminal of the run. If they were a penalty or premium payment in the form of final terminal delay should be paid.

The representative for the Brotherhood contended if one train had to leave Capreol to make room for another to enter, the train waiting would have to be held at the Suez as the track is single between these points, and a train could not come down to the so-called "Go" signal and be held there and still permit a southbound train to leave the yard. This required holding it at Suez.

The basic theme of the argument for the Brotherhood was that if yard congestion existed in Capreol, the penalty of terminal time payment is invoked if the crew is not permitted to yard their train. The signal at which held is more or less irrelevant provided it is a signal effecting entry into Capreol yard.

For the Company it was contended that switching limits are related to yard service only. On the other hand, terminals are concerned only with road service. It was stated that switching limits are established at points where yard engines are assigned which may or may not be terminal points.

It was reasoned by the Company's representative that article 10, rule (b) provides that final terminal time will commence from the time the engine reaches the main track switch connecting with the yard track; in other words, when the train begins to enter the yard in the final terminal. The one qualification is contained in the words "Should train be delayed at semaphore, yard limit board or behind another train similarly delayed, time shall be computed from the time engine reaches that point ..." It was urged the facts established that this train had not reached a semaphore within the terminal at Capreol; it had not reached the yard limit board at Capreol and it was not behind another train similarly delayed.

It was suggested that in this dispute the Brotherhood is attempting to have the extremities of a relatively small terminal extended one station beyond the terminal because that station happens to be within the same switching limits. If the Brotherhood were successful in the endeavour, the result, it was claimed, would be there would be no criterion to apply at a terminal where switching limits did not exist.

The Company's representative stated trains arriving Capreol in this manner, the final terminal time is paid for on the minute basis from the time the engine reaches the main track switch at mileage 275.9. That switch is the main track switch connecting with the yard track. Should a train be delayed at signal 275.9, that governs movements over the switch, final terminal time is paid from the time the engine reaches that signal. Similarly, for outgoing freight trains, initial terminal time is paid until the engine reaches this main track switch.

Because of rule 103 of the Uniform Code of Operating Rules providing that no part of a car or engine may be allowed to occupy a public crossing at grade for a longer period than five minutes, and the fact that Yonge Street the main thoroughfare of the Town of Capreol, crosses the Bala Subdivision approximately four-tenths of a mile from the switch at Capreol yard, a signal was installed at mileage 275.5, just south of the crossing. That signal displays a "proceed" indication when signal 275.9 indicates "proceed". Crews then know they will not be delayed at the switch to Capreol yard. If, on the other hand, the "Go" signal is not illuminated and the train is delayed there payment of final terminal time is allowed from the time the engine reaches that point.

It was contended the principal position of the Brotherhood at the joint conference was that because Suez was within the switching limits of Capreol it was within the terminal of Capreol. This was contrary to the position taken by the representative for the Brotherhood at this hearing, who based the claim principally on the fact that congestion in the yard was the important factor to be considered in interpreting the intention of article 10(b).

Consideration of this claim convinces the language of article 10(b) would have to be changed considerably before the interpretation placed upon it by the Brotherhood could be made. As it exists there is nothing in it contemplating the reason for a delay. It is when the train has reached the "designated main track switch connecting with the yard track" that final terminal time is to be paid. In view of that language what follows must be related to it, namely, that the "semaphore or yard limit board" means those points at the "designated main track switch". In other words, those signals are the ones controlling immediate access to the designated main track switch of Capreol yard. In this instance the situation existing at Yonge Street has been brought within the scope of the signal 275.9 for the purpose of computing terminal time. This lends support to the importance to be placed upon signal 275.9 as the one to be reached at Capreol before delay at that terminal requires a penalty payment.

For these reasons this claim is dismissed.

(signed) J. A. HANRAHAN
ARBITRATOR