

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 73

Heard at Montreal, Monday, July 17th, 1967

Concerning

ALGOMA CENTRAL RAILWAY

and

BROTHERHOOD OF RAILROAD TRAINMEN

DISPUTE:

Conductor T. Bouliane and Crew claimed a run-around October 16, 1966, when assigned passenger train crew was used for a passenger extra Hawk Junction to Hearst.

JOINT STATEMENT OF ISSUE:

Passenger Train No. 2 from Hearst to Sault Ste. Marie arrived at Hawk Junction Saturday, October 15, 1966, and due to washout between Hawk Junction and Sault Ste. Marie were held at Hawk Junction.

Sunday, October 16, 1966, this assigned passenger crew was called and handled a passenger extra Hawk Junction to Hearst.

Conductor T. Bouliane and Crew, an unassigned freight crew, claimed a run-around under article 30 of the Trainmen's Schedule. Claim was denied by the Company.

FOR THE EMPLOYEES:

(SGD.) C. E. MCCLELLAND
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) J. A. THOMPSON
VICE-PRESIDENT – RAIL OPERATIONS

There appeared on behalf of the Company:

H. R. Wootton – Manager Rail Operations, Sault Ste. Marie
P. J. Leishman – Supervisor Personnel, Sault Ste. Marie

And on behalf of the Brotherhood:

C. E. McClelland – General Chairman, Sault Ste. Marie,

AWARD OF THE ARBITRATOR

The representative for the Brotherhood told that a crew left Hearst their away-from-home terminal, at approximately 7.00 a.m. on Passenger Train No. 2, arriving at Hawk Junction at 11.10 a.m. They were held at Hawk Junction until approximately 5.00 p.m., when they decided to "tie up". It was stated this was due to management being unable to inform them when they would again be required. The next day, Sunday, October 16, 1966 this assigned passenger crew was called for 8.00 a.m. to handle a passenger "extra" as it was described for the Brotherhood, from Hawk Junction back to Hearst. There is no regular passenger train on Sunday.

Hawk Junction was said to be the home terminal for three unassigned freight crews, who handle all trains on that subdivision, Hawk Junction to Hearst, except the assigned passenger train. When this assigned passenger crew handled this passenger train on Sunday from Hawk Junction to Hearst, the unassigned crew first out at Hawk Junction claimed a run-around of 50 miles under the first paragraph of article 30.

It was urged for the claimants that article 74 supports their claim. Further, that article 5 (a) specifically provides that passenger trainmen are not required to perform extra service when unassigned crews are available.

Article 74, headed "Running of Unassigned Freight Crews" reads:

Unassigned freight crews will be run first-in first-out of the terminal on their respective subdivisions and, if available will be entitled to man all extra train service, due regard being had to the provisions of articles 7 and 14. Such crews handling wreck trains may be run off their assigned territory and article 30 will not apply.

Such crews handling extra passenger trains may be run off their assigned territory to include points to or from the Michipicoten Subdivision and article 30 will not apply. It is understood this does not apply to Michipicoten Subdivision crews.

Article 5, headed "Extra Service Passenger Service" reads:

Trainmen in passenger service will not be compelled to perform extra service outside their regular assignment, where unassigned trainmen are available, except to make up monthly guarantee, nor where unassigned trainmen are not available if such extra service would prevent them performing their regular assignment or prevent them from obtaining proper rest, provided unassigned trainmen could be moved to the point required.

The Company representative told that the reason for Trains 1 and 2 being held up was the main track (Soo Subdivision) was made impassable at several locations between Hawk Junction, Mileage 165, and Mekatira, Mileage 65 due to torrential rains at approximately 8.00 a.m. on October 15, 1966. This caused severe flooding conditions. The main track was restored on October 16, 1966, after having been inoperative for 28 hours. Normal train operations were suspended until repairs were made at points of impassable track.

On October 15, 1966, Passenger Train No. 1 departed Sault Ste. Marie (initial terminal) at 7.30 a.m., enroute to Hearst, Mileage 296 (final terminal). Due to impassable track, Train No. 1 had to return from Mileage 65 to Sault Ste. Marie. Passengers and express on that train were transferred to a bus at Mileage 14 on return trip for movement to Hawk Junction, Mileage 165, by highway.

As stated, on October 15, 1966, Passenger Train No 2 departed Hearst at 7.00 a.m. enroute to Sault Ste. Marie, arriving at Hawk Junction at 12.25 p.m. Due to washouts on the Soo Subdivision, No. 2's crew was held on duty at Hawk Junction awaiting the arrival of the bus with passengers and express off Train No. 1. The passengers and express on this train were transferred to a bus for movement to Sault Ste. Marie.

The passengers and express off Train No. 1 were expected at Hawk Junction between 5.30 and 6.00 p.m. The crew of Train No. 2 were waiting their arrival to return to Hearst. At approximately 5.30 p.m. on October 15, the Conductor of Passenger Train No. 2 at Hawk Junction advised that unless the bus arrived shortly they would "tie up" at Hawk Junction. At the time of receipt of this advice the Company had no knowledge of the fate of the buses. The crew of Train No. 2, as stated, did tie up at 6 30 p.m., booking 10 hours rest. At approximately 7.45 p.m. the Company was advised that the highway also was impassable due to washouts and that the buses were unable to fulfil the schedule and were returning to their original terminals.

On October 16, 1966, the crew of Passenger Train No. 2 were ordered at Hawk Junction for 8.00 a.m. as Passenger Extra to Hearst handling their regular passenger equipment, so as to be at Hearst to fulfil schedule of Passenger Train No. 2, on Monday, October 17.

The Company's representative told that Conductor T. Bouliane's crew was one of three crews bulletined to pool freight service on the Northern Subdivision, handling Trains No. 5 and 6 between Hawk Junction and Hearst and other services as required, as per a bulletin issued on September 26, 1966.

The Company's principal argument against this claim was based on the provision of the third paragraph of article 75 of the Collective Agreement reading:

When through unavoidable cause such regularly assigned trainmen lose their trip or run they will be used to run the first unassigned train which will enable them to catch their assigned train or run at the other terminal; this not to constitute a run-around under article 30. Provided, further, that regularly assigned passenger trainmen will be so moved only in passenger service or deadhead.

This provision was interpreted for the Company as intending that crews should get back on their regular assignment as quickly as possible, following a disruption of assignments through an unavoidable cause such as experienced by impassable track due to washouts in this instance.

It was submitted the crew of Passenger Train No. 2 were not able to complete their scheduled regular run, Saturday, October 15, 1966, due to the impassable track on the Soo Subdivision; that after remaining on duty at Hawk Junction for five hours then tied themselves up of their own accord.

Thus the regular assigned Passenger Crew was used to run the first unassigned train northward from Hawk Junction, on Sunday, October 16, 1966, handling passenger equipment to enable them to man Train No. 2 from Hearst, Monday, October 17, 1966.

Consideration of article 75 convinces it has pertinent application to the circumstances described. First, there can be no doubt an "unavoidable cause" made the crew of Train No. 2 "lose their trip". Second, the trip to which they were assigned on Sunday, October 16 was certainly "the first unassigned train". There are no passenger trains out of Hawk Junction on Sunday. The purpose was said to be primarily, not only the movement of passengers, but also to permit the crew "to catch their run at the other terminal", in other words, to permit them to take their normal assignment, as they did, on Monday, October 17, 1966.

For these reasons it is clear there has been no violation of the existing provisions of the collective agreement.

(signed) J. A. HANRAHAN
ARBITRATOR