

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 81

Heard at Montreal, Monday, October 16th, 1967

Concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

DISPUTE:

Claim of Assistant Extra Gang Foreman D. Saric for expenses for meals May 17th, 1966 to June 17th, 1966.

JOINT STATEMENT OF ISSUE:

An Extra Gang in which D. Saric was employed as Assistant Extra Gang Foreman was temporarily transferred to the Medicine Hat Division in connection with ballasting operations for the period May 17th, 1966 to June 17th, 1966.

Saric submitted a claim for meals during the above mentioned period, based on Section 8, Clause 6 of Wage Agreement 14 which claim was declined.

FOR THE EMPLOYEES:

(SGD.) W. M. THOMPSON
SYSTEM FEDERATION GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) R. S. ALLISON
GENERAL MANAGER - PACIFIC REGION

There appeared on behalf of the Company:

J. G. Benedetti - Supervisor Personnel & Labour Relations, Vancouver
K. A. Truman - Regional Engineer, Vancouver

And on behalf of the Brotherhood:

W. M. Thompson - System Federation General Chairman, Ottawa
G. D. Robertson - Federation General Chairman, Moose Jaw
A. Passaretti - General Chairman, Montreal

AWARD OF THE ARBITRATOR

There was no dispute that on May 16, 1966, the claimant, Mr. D. Saric, holding seniority as an assistant extra gang foreman on the Calgary Division, was transferred with the gang and boarding outfits with which he had been working on the Kootenay Division to the Medicine Hat Division to work in ballasting operations. This work was completed on June 17th, 1966, when he was again transferred with the same gang and boarding outfits to the Edmonton Division working there on ballasting operations.

It was claimed that when working off his assigned territory from May 17 to June 17, 1966, Mr. Saric incurred expenses for meals in the amount of \$95.00.

Section 4(1) of the Agreement provides in part:

... Employees may also be transferred temporarily for extra gang work, to construction department, from one seniority territory to another ... without losing their seniority standing on the seniority territory from which transferred and transfer will be given in writing, if requested ...

Section 8, Clause 6 of Wage Agreement No. 14, governing service of Maintenance of Way Employees reads in part as follows:

Employees taken off their assigned territory or regular boarding outfits, to work temporarily on snow or tie trains, or other work, shall be compensated for boarding and lodging expenses they necessarily incur ...

It was contended for the claimant that the term "assigned territory" of an employee in a boarding outfit is the territory over which he is regularly assigned to work, which would be his "seniority territory" as defined in Section 3, Clause 2(a) of the revised seniority rules.

It was also urged that employees in boarding outfits are "taken off their assigned territory" when they are required to work at a point which is not within their "seniority territory". It was therefore the intention of Section 8, Clause 6, the representative for the Brotherhood claimed, that employees should be compensated "for living expenses while temporarily employed off assigned territory."

The Company's representative referred the Arbitrator to a decision of The Canadian Railway Board of Adjustment No. 1, **Case No. 581**, in 1949 dealing with a similar contention, that upheld the interpretation, it was claimed, that has been placed by the parties upon this provision since 1920.

Of importance in this matter is the fact that the claimant worked prior to taking this new assignment where boarding cars were provided; that such accommodation was also supplied him during the period in question.

Support for the Company's contention, that the words "assigned territory" referred only to employees who were not assigned to boarding outfits, it was submitted, is to be found in Section 8, Clause 1, reading:

Employees called to work outside of their regular working limits, requiring their absence beyond regular working hours, shall be supplied with boarding cars or given an opportunity to procure meals when necessary and practicable; no employee shall be required to work more than seven hours without food.

I am satisfied that Clause 1 represents the provision that is to apply when boarding outfits are supplied; that Clause 6 only has application where they are not. Having been supplied with that accommodation during the period in questions I find the rights of the claimant in that regard have not been violated.

The claim is therefore disallowed.

(signed) J. A. HANRAHAN
ARBITRATOR