

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 86

Heard at Montreal, Monday, November 13th, 1967

Concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

BROTHERHOOD OF RAILROAD TRAINMEN

DISPUTE:

Claims of Spare Conductor J. Mandzie for 100 miles deadheading from Calgary to Medicine Hat and 100 miles deadheading from Medicine Hat to Swift Current on September 18th, 1966, and 100 miles deadheading from Swift Current to Medicine Hat and 100 miles deadheading from Medicine Hat to Calgary on September 25th, 1966.

JOINT STATEMENT OF ISSUE:

Spare Conductor Mandzie was required to deadhead from Calgary to Swift Current on Train No. 2 to relieve a regular Conductor booked off on his Wayfreight Assignment. Conductor Mandzie submitted claims for deadheading as outlined above.

In both instances the Company reduced the claims and allowed payment of 100 miles in each direction on the basis that it was a continuous trip deadheading. The Brotherhood of Railroad Trainmen alleges that in doing so the Company violated the provisions of article 22, clause (a) which reads:

22(a) Trainmen required by the Company to deadhead from one terminal to another, irrespective of the manner in which the deadheading is done, shall be paid on the basis of 12 1/2 miles per hour at the through freight rate for the actual time occupied. Time to be calculated from time ordered for until arrival at objective terminal. Except as provided in clause (b) of this article, not less than eight hours will be paid; overtime pro rata.

FOR THE EMPLOYEES:

(SGD.) S. MCDONALD
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
C. F. Parkinson - Labour Relations Assistant, Montreal

And on behalf of the Brotherhood:

R. T. O'Brien - Vice-General Chairman, Calgary

AWARD OF THE ARBITRATOR

The facts established that on Sunday, September 18th, 1966, Conductor Carlson, the regularly assigned conductor on the Empress-Burstall wayfreight, with home terminal at Swift Current, booked off. Trainman J. Mandzie, who was working as a brakeman on the Bassano-Empress mixed train assignment was the senior qualified conductor not working as such in Zone 2. He was ordered to deadhead to Swift Current to relieve Conductor Carlson, pursuant to the first sentence of clause (e) of article 38:

38 (e) Except as provided in article 37(h)(1), when a spare conductor is required, the senior brakeman in that zone, who is classed and available will be used for this service. ...

As he was spending the week-end in Calgary, Trainman Mandzie was deadheaded from that point, rather than from his home terminal Bassano, to Swift Current. He was ordered at Calgary for 17:30k and arrived at Swift Current at 23:30k. The actual time occupied was six hours. After relieving the conductor on the Empress-Burstall wayfreight assignment during the week of September 18, he was replaced by the regular conductor and deadheaded from Swift Current to Calgary on Train 1, September 25, being ordered at the former point for 8:00k; and arrived at the latter point at 14:00k. The actual time occupied was six hours.

Trainman Mandzie submitted separate claims for deadheading from Calgary to Medicine Hat and Medicine Hat to Swift Current each for eight hours at 12 1/2 miles per hour (100 miles). These claims were rejected by the Company and he was paid on a continuous time basis for the time ordered at Calgary until arrival at Swift Current, the "objective terminal" of the deadhead trip. Again on the return deadhead trip on September 25th he was allowed payment on a continuous time basis for the time ordered for at Swift Current until arrival at Calgary, the "objective terminal". The time occupied was again six hours and he was allowed payment of eight hours at 12 1/2 miles per hour (100 miles).

For the Brotherhood it was submitted that the provisions of article 22 clause (a) apply to Trainmen deadheading from one terminal to another, irrespective of the manner in which the deadheading is done and will be paid for no less than 8 hours. It was claimed that Medicine Hat is unquestionably a home terminal for all freight and passenger crews working both east and west from that point. When Mandzie deadheaded from Calgary to Medicine Hat, it was claimed he deadheaded from one terminal to another and was entitled to the minimum 8 hours for this trip. The same applied to his trip from Medicine Hat to Swift Current and on his return trips from Swift Current to Medicine Hat and Medicine Hat to Calgary.

Article 22, clause (a) provides, in part:

22 (a) Trainmen required by the Company to deadhead from one terminal to another, irrespective of the manner in which the deadheading is done, shall be paid on the basis of 12 1/2 miles per hour at the through freight rate for the actual time occupied ...

The Brotherhood quoted article 11, clause (c)(1), stating:

11 (c) (1) The meaning of terminal is understood to be the regular points between which crews regularly run; for instance, the terminal from which a branch line projects will be the terminal for the branch, but not necessarily for the subdivision from which the branch line projects.

For the Company it was submitted that clause (a) of article 42, states, in part,

42 (a) Assignments, other than work train, will be bulletined specifying the home terminal, initial and objective terminal for each trip, territory over which the assignment is to perform service.

Further, that terminals for unassigned crews are the regular points between which such crews regularly run, as provided in the second paragraph of clause (c)(1) of article 11, Freight Service.

From this it was reasoned that terminals for unassigned crews are the regular points between which such crews regularly run. Terminals for crews in assigned service, other than those in work train service, are as designated by bulletin in accordance with the provisions of article 42, clause (a). Therefore, terminals for unassigned crews are not necessarily terminals for crews in assigned service and conversely terminals for assigned crews are not necessarily terminals for crews in unassigned service.

It was stated the terminals for unassigned crews operating on the Brooks Subdivision are Medicine Hat and Alyth (Calgary). Bassano is not a terminal for such crews. Bassano and Empress were the terminals, so designated by bulletin, for the assigned crew manning the Bassano-Empress mixed train assignment. Medicine Hat was not a terminal for that crew.

It was urged that Trainman Mandzie was a brakeman on the Bassano-Empress mixed train assignment. He was in assigned service, Bassano and Empress being the terminals of his assignment; that when he relieved as conductor on the Empress-Burstall wayfreight assignment he was still in assigned service in Zone 2. He simply moved, it was claimed, from one assigned run to another assigned run in the same zone, to all intents and purposes in the same seniority territory. He was not in unassigned service, it was asserted.

Actually, the same reasoning applies in this claim as that found applicable in Case 85. Again the important word in the opening sentence of article 22, clause (a) is of determining importance:

22 (a) Trainmen required by the Company to deadhead from one terminal to another ...

On each of the occasions for which the claims were submitted, the grievor was required by the Company to deadhead, first, from Calgary to Swift Current and, second, from Swift Current to Calgary. Deadheading has been specially provided for by the parties and the term "terminal" used in that provision must be considered in the light of the requirement for the trip, not the terminals that apply to crews operating in assigned or unassigned service, such as specifically defined in article 11, clause (c)(1) or in clause (a) of article 42.

For these reasons this claim is denied.

(signed) J. A. HANRAHAN
ARBITRATOR