

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 133

Heard at Montreal, Wednesday, November 13th, 1968

Concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

BROTHERHOOD OF RAILROAD TRAINMEN

DISPUTE:

Claim of Conductor R.W. Anderson and crew, Calgary, for 32 miles reduced in claim for turnaround service within a trip for movements made on May 21st, 1966, between Mileage 48.0 and Didsbury, Red Deer Subdivision.

JOINT STATEMENT OF ISSUE:

Conductor Anderson and crew were on a northbound trip, Alyth to Red Deer. They had instructions to switch the spur at Mileage 48 and, on leaving Didsbury, Mileage 46.4, they had one hour and thirty-five minutes to switch the spur at Mileage 48 and proceed to Olds, Mileage 56.5, to clear Train No. 78. The switching at the spur took longer than had been expected and it was then necessary to back up to Didsbury to clear Train No. 78. The crew submitted a claim for miles run from Alyth to Mileage 48, back to Didsbury thence to Red Deer, and for time at Mileage 48 and Didsbury. Payment of claim for the miles run from Mileage 48 to Didsbury and return to Mileage 48 plus time at these points was declined by the Company. The Brotherhood of Railroad Trainmen alleges that the Company, in declining this claim, has violated the provisions of Article 23, Clause (a) (2), which reads:

Trainmen performing turnaround service within a trip, including back-up movement into terminal because of locomotive failure, accident, stalling, etc., will be paid for the actual miles run. The points between which turnaround service is performed or back-up movement into terminal is made will be regarded as turnaround points and time at the turnaround points will be paid for in accordance with Article 11, Clause (f). Actual miles paid for will be added to the mileage of the trip and time paid for will be paid in addition to pay for the trip but will be deducted in computing overtime.

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:

S. McDonald – General Chairman, Calgary
P. P. Burke – Local Chairman, Calgary

AWARD OF THE ARBITRATOR

In this case the train in question went past Didsbury as far as Mileage 48. At that point the switching operations took place. These operations in themselves would not have given rise to a claim under article 23, as the Canadian Railway Office of Arbitration **Case No. 4** makes clear. In that case a northbound train was left at Breton while switching operations were conducted on the Goliad spur.

To accomplish the switching operation it was necessary for the engine to run more than one mile off the main track, and the Arbitrator indicated that article 13 of the collective agreement dealt with such a situation. When the switching operation was completed, certain cars were coupled to the train at Breton and the northbound trip resumed. The train itself did not turnaround or double back, and I am, with respect, in agreement with the arbitrator's decision that article 23(a)(2) did not apply in the circumstances of that case.

In the instant case there was a switching operation conducted on the Propane spur, commencing at Mileage 48. This switching operation, like that in Case No. 4, would not in itself call for the application of article 23 (a) (2). The union argues that the case must be distinguished from Case No. 4, because, following the switching operation, it was necessary to move the train back to Didsbury in order to clear train 78. After train 78 had cleared, then Conductor Anderson and his crew proceeded northbound on their train to Red Deer, passing Mileage 48 en route. I agree with the union's contention that this constituted "turnaround service within a trip" and that this clearly distinguishes the case from **Case No. 4**.

The company contends, however, that article 23 (a) (2) has no application because the turnaround was not between "points" which, it is argued, must be read as meaning "stations". I am unable to accept this contention. While the term "points" would normally include "stations", and while in some parts of the collective agreement the term "points" may properly be read as referring to "stations", a reading of article 23 does not lead me to the conclusion that the word "points", as it is there used, must mean "stations" exclusively. Such an interpretation is simply not consistent with the application of the express terms of the article. By article 23(a)(2) it is provided that turnaround service within a trip includes back up movements caused by locomotive failure, accident or stalling. Quite obviously, such mishaps do not occur only at "stations", but may occur anywhere. In my view – and the matter did not arise in **Case No. 4** – the term "point" in article 23 (a) (2) may mean any of the geographical points or places between which a backyard movement is made within the course of a trip. In the instant case, article 23 (a) applies to the movement made (following completion of switching on the Propane spur), from Mileage 48 to Didsbury and return to Mileage 48. This was turnaround service within the trip from Alyth to Red Deer, and is to be paid for in the manner set out in article 23 (a).

Accordingly, the grievance is allowed.

(signed) J. F. W. WEATHERILL
ARBITRATOR