

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 178

Heard at Montreal, Tuesday, October 14th, 1969

Concerning

CANADIAN PACIFIC TRANSPORT

and

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

DISPUTE:

Claim of employee J. Flegal of Saskatoon, for all time spent servicing and picking up CP Transport tractor at the CP Transport garage, Saskatoon, and driving it to the CP Transport Terminal Building approximately five blocks away, prior to hooking up to the trailer and departing on the highway run. Claim is also made for all time spent on completion of run returning the tractor to the garage.

JOINT STATEMENT OF ISSUE:

Driver Flegal was assigned to operate a tractor-trailer on Route 120 between Saskatoon and Macklin. If his tour of duty commences at night, he is required to unlock the garage, remove the tractor, relock the garage, check the orders and oil and fuel. He then drives the tractor to the Terminal Building where he performs his check and hook-up procedures. On completion of his return trip and after performing his regular duties at the Terminal Building he then drives the tractor to the garage area for parking.

The Brotherhood contends that the duties performed at the garage and the driving of the tractor between the garage and the Terminal Building are separate and apart from the preparatory and termination duties outlined in Articles H-22.2.2 and H-22.2.3 of the Collective Agreement, and such work should be paid as Work Time, under Article H-22.2.5.

The Company contends that the duties in question are part of the preparatory and termination duties and that, as such, Flegal was properly compensated for such work in the mileage rate and is not entitled to work time payments in addition thereto.

Articles H-22.2.2 and H-22.2.3 and H-22.2.5 read as follows:

H-22.2.2 Terminal delay occurs when a driver is held over at the terminal point beyond the time he was advised to report for duty, or such later time as he actually reports for duty. Terminal delay is exclusive of time spent performing such normal duties as inspecting and servicing units, picking up running orders, bills and any other preparatory duties that may be assigned, it being understood that all such duties are paid for by the mileage-rate of pay.

H-22.2.3 Mileage-rated drivers upon arrival at their final destination, shall be responsible for the spotting of the trailers, inspecting the unit, making out work orders, booking in and any other duties associated with the termination of the trip that may be assigned it being understood that all such duties are paid for by the mileage-rate of pay.

H-22.2.5 Work time shall include loading and unloading and repairing equipment and shall be paid for on the actual minute basis.

FOR THE EMPLOYEES:

(SGD.) L. M. PETERSON
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) C. C. BAKER
MANAGER, INDUSTRIAL RELATIONS, CP TRANSPORT

There appeared on behalf of the Company:

C. C. Baker – Manager, Industrial Relations, Vancouver
D. Cardi – Labour Relations Assistant, Montreal

And on behalf of the Brotherhood:

L. M. Peterson – General Chairman, Don Mills
G. Moore – Vice General Chairman, Moose Jaw
F. C. Sowery – Vice General Chairman, Montreal
W. C. Y. McGregor – International Vice President, Montreal

AWARD OF THE ARBITRATOR

It is the contention of the company that any duties done in preparation for a trip constitute “preparatory” duties within the meaning of article H–22.2.2 of the collective agreement. The union, on the other hand, contends that the trip from the garage to the terminal building is not a “normal preparatory duty, and is payable as work time.

No difficulty arises where the garage is a part of the terminal building facilities. Necessary driving within the terminal area is clearly included within the “normal duties” referred to in article H–22.2.2. Some distinction may, however, be drawn between the “terminal”, meaning the building, group of buildings or compound from which drivers take out their trips, and the “terminal point”, meaning the general geographic location from which drivers leave on trips, or to which they are destined. Whether a distantly-located garage be considered a part of the same “terminal” is the terminal building or not is immaterial to this grievance. The question here is whether, when the garage is located separately and apart from the terminal building, time spent travel from the one to the other is a part of normal terminal delay.

This is a question of the interpretation of the phrase “other preparatory parties” as it appears in article H–22.2.2. In my view, this phrase must be read having regard to the whole of the article. In a sense, all maintenance or repairs of the vehicle are “preparatory” to its being taken out on a trip, but it is clear that if maintenance or repair work were assigned to driver, such work would not be normal preparatory duties, and he would be entitled to payment for his time. Article H–22.2.2 sets out a number of examples of “normal” duties, such as inspecting and servicing units and picking-up running orders and bills. These would be preparatory duties wherever they were performed. There can be no doubt, on the accepted rules of interpretation, that “other preparatory duties” must mean preparatory duties of the same sort as those already set out. In my view, the unlocking of a garage, removal of the tractor, relocking of the garage and checking of orders, oil and fuel are of the same general sort as the preparatory duties a driver would do if his work commenced at the terminal proper. The drive to the terminal building (and from the terminal building to the garage) is, however, a different matter. It is not like the preparation, it is like the drive itself, it is more “work” than it is “preparatory duties”. Further, while preparatory duties will involve more or less the same sort of tasks in any terminal, with only a few variations, the drive from a distant garage to the terminal will depend entirely on the particular locations of these places.

Accordingly, it is my conclusion that the driving of the tractor from a distant garage to the terminal is not one of the “other preparatory duties” within the meaning of article H–22.2.2. The grievance is, to that extent allowed. The time spent in unlocking the garage, removing the tractor, checking orders, oil and fuel and so on is, however, time spent on “other preparatory duties” within the meaning of the section and to that extent the grievance fails.

Having regard to the foregoing, therefore, it is my award that time spent driving between a distant garage and a terminal is not excluded from terminal delay time.

(signed) J. F. W. WEATHERILL
ARBITRATOR