

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 197

Heard at Montreal, Tuesday, December 9th, 1969

Concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION (T)

EX PARTE

DISPUTE:

Claim of Conductor G.H. Campbell and crew, Wilkie, for 89 miles reduced when claiming payment on the basis of a separate trip from Hardisty to Rosyth and return to Hardisty on March 12th, 1969.

EMPLOYEES' STATEMENT OF ISSUE:

This crew was ordered for 0930 to assist Train No. 976 from Hardisty to Rosyth and then return to Hardisty to work their own train No. 74 from Hardisty through to Wilkie. Claims were submitted for two separate trips but these were declined and payment allowed for one trip only, the Company alleging that the movement from Hardisty to Rosyth and return to Wilkie was turnaround service within a trip as specified in Article 23, Clause (a), paragraph 2, and payment was allowed accordingly.

The Union contends that Article 23, Clause (a)(2) does not apply under these circumstances and alleges that Article 11, Clause (c)(1) has been violated.

FOR THE EMPLOYEES:

(SGD) S. McDONALD
GENERAL CHAIRMAN

There appeared on behalf of the Company: Tuesday, December 9th, 1969

P. A. Maltby – Supervisor, Labour Relations, Winnipeg
C. F. Parkinson – Labour Relations Assistant, Montreal

And on behalf of the Brotherhood:

S. McDonald – General Chairman, Calgary
R. T. O'Brien – Vice-General Chairman, Calgary
J. Ferguson – Local Chairman, Kamloops

INTERIM AWARD OF THE ARBITRATOR

In this case, as in **Case No. 195**, the company has raised a preliminary objection relating to the sufficiency of notice of application for permission to submit a separate statement of issue. The material facts in this case are the same as those in **Case No. 195**, and for the reasons there set out it is my conclusion that proper notice has been given. The matter will be set on for hearing in the usual course.

(signed) J. F. W. WEATHERILL
ARBITRATOR

On Tuesday, January 13, 1970, there appeared on behalf of the Company:

P. A. Maltby – Supervisor, Labour Relations, Winnipeg
J. Ramage – Special Representative, Industrial Relations, Montreal

And on behalf of the Brotherhood:

R. T. O'Brien – General Chairman, Calgary

AWARD OF THE ARBITRATOR

Conductor Campbell and crew commenced work at Hardisty at 09:30 on March 12, 1969. Their first task was to assist train No. 976 over the controlling grade from Hardisty to Rosyth. For this purpose they left Hardisty at 1155, arriving at Rosyth at 1215, they departed from Rosyth to return to Hardisty at 1220, arriving back at 12:35. The distance from Hardisty to Rosyth and return is 11 miles. They then proceeded to take train No. 74 from Hardisty to Wilkie, leaving Hardisty at 1345, and arriving at Wilkie at 1840, being released from duty at 1850. It is the union's contention that Conductor Campbell and crew completed two trips on this day, one being the turnaround from Hardisty to Rosyth and return was "turnaround service within a trip", within the meaning of article 23(a)(2) of the collective agreement.

There have been several cases decided in the Canadian Railway Office of Arbitration involving similar claims. Some cases, like the instant case, have involved situations in which turnaround service has preceded a straight-away trip in the course of a crew's tour of duty. Examples of this are to be found in **Case No. 6**, **Case No. 7**, and perhaps **Case No. 20**, and reference may be made as well to **Case No. 11**, which was apparently argued on different grounds. Other cases have dealt with situations in which an employee works in more than one classification during his tour of duty; examples of this are **Case No. 68** and **Case No. 145**. The principle underlying these cases is the same, the issue being, fundamentally, whether a tour of duty, a trip, or a day's work must be said to be concluded when work on the first trip of the day, or work in the first classification in which an employee works, has been completed, or is brought to a halt. In none of the cases referred to was the union's position upheld, although the situations there were – in terms of the fundamental issue – similar to the situation in this case.

In the instant case Conductor Campbell and crew assisted train No. 976 for a short distance, returned to the point of origin, and then took their own train to its destination. The first part of the trip did not involve their own train, but it was part of the work they were called to do, and within the same class of service. In this case, as in the other cases cited, it is of importance to note that there is no "automatic end-of-trip" or "automatic release" rule in effect. In my view, it is fair to say that the tasks given Conductor Campbell and crew constituted a continuous tour of duty. It would not be fair to say that the work done in assisting train No. 976 constituted a day's work, for which a minimum day's pay could be claimed, nor would it be fair to say that the subsequent trip to Wilkie was a distinct and separate day's work for which (depending on the circumstances) some other crew might have been entitled to be called.

I am unable to see any material distinction between this case, and **Case No. 6**, and, with respect, I am in agreement with the decision there given. For the reasons in that case, and in the other cases referred to, it is my conclusion that Conductor Campbell and crew performed turnaround service within a trip, and were not entitled to a minimum day's pay on this account.

Accordingly, the grievance must be dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR