

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 208

Heard at Montreal, Tuesday, May 12th, 1970

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Fifty-three claims for a new day for the alleged violation of Article 7, Rule G, in favour of various engineers on the St. Lawrence Region Lines in the United States, when they operated through Gorham to Berlin and return to Gorham, between January 21 and April 15, 1969.

JOINT STATEMENT OF ISSUE:

Train #749 was bulletined to the Locomotive Engineers to operate from Portland to Gorham via Berlin. Berlin is 6.3 miles beyond Gorham. The train operated from Portland through Gorham to Berlin and returned to Gorham, where the engineer was released from duty.

The engineers, based on their interpretation of Article 7, Rule G, submitted tickets for 100 miles plus allowances for that portion of the trip Portland to Gorham which is 91.6 road miles, and a second ticket for a new day (100 miles plus allowances) for that portion of the trip Gorham to Berlin and return to Gorham, which is 12.6 road miles.

The Company paid these engineers in continuous service from Portland to Gorham via Berlin, and declined payment of the tickets claiming a new day.

FOR THE EMPLOYEES:

(SGD.) E. J. DAVIES
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) K. L. CRUMP
ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

M. A. Cocquyt	– System Labour Relations Officer, Montreal
C. F. Wilson	– Labour Relations Assistant, Montreal
W. S. Mason	– Manager Labour Relations, Montreal
G. Carra	– Labour Relations Officer, Montreal
J. R. Brault	– Assistant Superintendent, Island Pond, Vt.

And on behalf of the Brotherhood:

E. J. Davies	– General Chairman, St. Thomas, Ont.
A. Miller	– Local Chairman, Montreal
D. E. McAvoy	– General Chairman, Montreal

AWARD OF THE ARBITRATOR

The assignment in question was to operate Portland–Gorham–Berlin–Gorham. The bulk of the assignment is taken up by the run from Portland to Gorham. The portion from Gorham to Berlin is relatively short. The mileage involved, however, is immaterial to the question of principle, which is, in essence, whether the crews involved were to be considered in continuous service throughout the whole assignment (as the Company contends), or whether that portion of the trip from Gorham to Berlin and return was to be considered a new day (as the Union contends).

Article 7G, on which the Union relies, is as follow:

G – RELEASE AT FINAL TERMINAL

Engineers on arrival at objective terminal after performing switching required in connection with their own train and putting their train away (including caboose) will be considered released from duty. Should they be required to perform other work when yard engines are on duty or to make short runs out of the terminals they will be paid one hundred (100) miles for such service. It is understood that where no yard engine is on duty road engineers will do yard switching and will be considered as in continuous service.

The essence of the Union's argument is that train No. 749 "arrived" at Gorham for the purposes of article 7G when it first reached that point en route for Berlin. In a sense, of course, the train had "arrived" at Gorham at that time. The Union quite correctly argued that before a train can be said to have passed "through" any given point, it must first "arrive" there, and then "leave". This is not, however, the sense in which the term is used in article 7G, as many cases involving a similar issue have made clear. Article 7G provides for "release at final terminal". By its provisions, engineers are considered released from duty "on arrival at objective terminal after performing switching required in connection with their own train and putting their train away (including caboose)". It is in the context of that provision that the term "arrival" must be understood, and it is clear that in that sense the engineer had not "arrived" at Gorham until he had returned from Berlin. The run from Gorham to Berlin and return was not "other work" or a "short run out of the terminal" as contemplated by article 7G, but was a part of the assignment, and it was not until the assignment was completed that the train could properly be said to have arrived at the objective terminal within the meaning of article 7G.

In the context of article 7G to word "arrived" connotes finality, the attainment of an objective. In particular, on the language of the article, it refers to the engineer's reaching the objective terminal. It is coincidental that the train should, in the course of the assignment, pass through the point to which it will ultimately return as its objective. While there may be no tracks which would permit the train to by-pass Gorham, the end result is the same. It is only when the objective terminal as such is reached that the train can properly be said to have "arrived" there.

For the foregoing reasons, it must be my conclusion that the grievors were in continuous service from Portland to Gorham via Berlin, and it was only when the assignment was completed on their return to Gorham from Berlin that they could properly be said to have arrived at their final or objective terminal within the meaning of article 7G. Accordingly the grievances must be dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR