

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 230

Heard at Montreal, Tuesday, July 14, 1970

Concerning

**CANADIAN PACIFIC RAILWAY COMPANY**

and

**UNITED TRANSPORTATION UNION (T)**

### **DISPUTE:**

Claim of the Union that sleeping quarters proposed by the Company at the YMCA, 1441 Drummond St., Montreal, are unsuitable under the provision of Clause E of the Pooled Caboose Agreement dated February 24th, 1967 for Ottawa passenger trainmen at their away from home terminal.

### **JOINT STATEMENT OF ISSUE:**

On May 8th, 1970, the Company served notice on the United Transportation Union that effective June 1st, 1970, sleeping accommodation for Ottawa passenger trainmen would be provided at the YMCA, 1441 Drummond St. Montreal. The men refused to occupy the accommodation and a claim was progressed by the Union that the sleeping accommodation at the YMCA is not suitable and not convenient to the station. The Company declined the claim on the basis that the accommodation is suitable and convenient to the station as provided in Clause E of the "Pooled Caboose Agreement" entered into by the parties to the dispute on February 24th, 1967.

### **FOR THE EMPLOYEES:**

**(SGD.) L. H. BREEN**  
**GENERAL CHAIRMAN**

### **FOR THE COMPANY:**

**(SGD.) E. L. GUERTIN**  
**REGIONAL MANAGER, OPERATION AND MAINTENANCE**

There appeared on behalf of the Company:

C. E. Moore – Supervisor Personnel & Labour Relations, Montreal  
R. O'Meara – Assistant Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

L. H. Breen – General Chairman, Montreal  
D. E. Gaw – Local Chairman, Ottawa

### AWARD OF THE ARBITRATOR

Clause (E) of Appendix 2 of the collective agreement provides as follows:

- E.** Passenger trainmen will be provided with suitable sleeping quarters at away-from-home terminals convenient to passenger stations.

This grievance is brought with respect to certain passenger trainmen required to stay overnight at Montreal, which is, for them, an away-from-home terminal. By Clause (E) of Appendix 2 the Company is required to provide these employees with “suitable sleeping quarters ... convenient to passenger stations”.

Following the issue of the Award in **Case No. 157**, (which dealt substantially with the question of the appropriate remedy where the employer was in default of its obligation under Clause (E) of Appendix 2), the employer arranged accommodation for the employees in question at the Queen’s Hotel, in Montreal. This hotel is convenient to the Windsor Station, and while the Union may have certain reservations as to its “suitability”, that point is not specifically in issue in these proceedings. Without deciding the matter, it may be suggested *pro tem* that such accommodation was “suitable” within the meaning of Clause (E).

More recently, however, the Company has sought to provide accommodation at the Montreal YMCA, located some five blocks from the Windsor Station. This distance is not remarkably great, and although the YMCA is obviously less convenient for the employees than the Queen’s Hotel, the question under the collective agreement is not a relative one. I do not decide this case on the ground that the YMCA is not “conveniently” located.

The substantial question in this case is whether the accommodation provided for trainmen is “suitable” within the meaning of Clause (E) of Appendix 2. As an aid to the understanding of the matter, I took a view of the accommodation offered, at the request and in the company of representatives of the Company and the Union. Having regard to all of the circumstances, it is my conclusion that the accommodation offered is not “suitable” within the meaning of the collective agreement.

As noted in **Case No. 157** there are no criteria in Clause (E) for establishing what would constitute “suitable” sleeping quarters. There are provisions relating to the facilities to which other groups of employees are entitled, and these, although not binding in this case, may be considered as an aid to interpretation and as indicating in a general way the standard of accommodation which might be considered “suitable”. Thus, by Clause (B), new rest houses are to be provided, *inter alia*, with:

- ... Single occupancy bedrooms, with a floor area of eighty (80) square feet, equipped with a mirror, bedside table, chair, electrical outlet, clothes hanging facilities, adequate lighting, opaque window blinds ... beds will be of standard single size with spring-filled mattress, linen shall be changed after each occupancy and blankets changed at regular intervals ...

The accommodation provided at the YMCA met, or slightly surpassed, these requirements. It is no doubt the case, however, that the overall character of the accommodation is rather different from that to be found in one of the Company’s new rest houses. Accommodation in a large city will of necessity be significantly different from that in locations where the Company must itself provide the facilities. It is provided in Clause (D) of Appendix 2 that the Company may elect to provide “suitable sleeping accommodation in a hotel or motel located convenient to the point where trainmen regularly go on and off duty ...”. Whether or not the YMCA may properly be described as a “hotel” within the meaning of the clause, the substantial question is whether it provides the sort of accommodation suitable for trainmen required to lay over in Montreal.

It is no criticism of the useful service provided by the YMCA to say that the accommodation there provided is not suitable for these employees. The question is one of fact, to be determined upon a consideration of all of the material circumstances in each particular case. The actual rooms and furnishings would probably not give rise to criticism in another milieu; located as they are in the heart of a large city, however, they take on a particular character, and result in a form of accommodation different from that which a mere recital of the specifications might suggest. In particular, the rooms were said by the Union to be hot and stuffy; there were encounters with “unsavoury characters”, and the accommodation was not as convenient as the Queen’s Hotel. The matter of convenience, as I have indicated, is not a substantial factor. The other complaints are, however, substantial. The rooms are rather hot and stuffy, a drawback accentuated perhaps by the downtown location. While there is no reason to deal with the character of the guests at the YMCA – which may be as good or as bad as at any other place – specific mention may

be made of the fact that common, or semi-public washroom facilities are provided. This is not an inconsequential matter, having regard to the size and location of the institution, although as I have said no criticism is intended of the institution itself.

Having regard to all of the circumstances, it is my conclusion that in providing accommodation at the YMCA in Montreal, the Company did not provide suitable accommodation, as it was required to do under the collective agreement. In choosing to remain at the Queen's Hotel the employees in question followed a proper course, having regard to the Award in **Case No. 157**. They are entitled to be reimbursed for their expenses incurred in respect of that accommodation, and I so award.

**(signed) J. F. W. WEATHERILL**  
**ARBITRATOR**