

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 248

Heard at Montreal, Thursday, October 15th, 1970

Concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION (T)

DISPUTE:

Failure to agree on reduced passenger train crew consist, by the elimination of the head-end brakeman on passenger trains No. 1 and No. 2 (The Canadian), on the seven assigned runs as follows:

1. Between Thunder Bay and Winnipeg.
2. Between Winnipeg and Brandon.
3. Between Brandon and Moose Jaw.
4. Between Moose Jaw and Medicine Hat.
5. Between Medicine Hat and Field.
6. Between Field and Kamloops.
7. Between Kamloops and Vancouver.

JOINT STATEMENT OF ISSUE:

Article 5, Clause (b), Subsections 1, 2, 3 and 4 of the Collective Agreement read:

(b) 1. Should the Company desire to reduce the consist of any passenger train crew it shall notify the Local and General Chairman of the Union in writing of its desire to meet with respect to reaching agreement on a reduced crew consist. The time and place, which shall be on the Region concerned or where runs extend over more than one region on one of the regions concerned, for the Company and Union representatives to meet shall be agreed upon within twenty-one calendar days from the date of such notice and the parties shall meet within thirty calendar days of the date of such notice. It is understood, however, that if the number of cases to be handled at any particular time make the time limits specified herein impractical, on request of either party, the parties shall mutually agree on a practical extension of such time limits.

(b) 2. The determination of whether or not the proposed crew consist reduction shall be made will be limited to and based on maintenance of adequate safety and that the reduced crew consist will not result in undue burden being placed on the members of the reduced crew.

(b) 3. If the parties do not reach agreement at the meeting referred to in Subsection (1) the Company may, by so advising the Local and General Chairman in writing, commence a survey period of one week of the operations concerned during which the Union representatives may observe such operations. The survey shall commence no less than ten and not more than twenty calendar days from the date of the Company's advice with respect to the survey period. The Local and General Chairman shall be advised of the results of the survey.

(b) 4. If, after completion of the survey period, the Union representatives oppose the implementation of a reduced crew consist, such representatives will identify the specific circumstances where, in their opinion, with a reduced crew consist adequate safety could not be maintained or that an undue burden would be placed on the members of the reduced crew and the reasons therefor. If agreement cannot be reached by the parties on the proposed crew consist reduction, the General Manager may by so advising the General Chairman in writing refer the dispute to the Canadian Railway Office of Arbitration for determination.

Notices were served upon the respective Local Chairmen and the General Chairman of the United Transportation Union by the Company of its desire to reduce passenger train crew consist, by elimination of the head-end brakemen on each of the seven passenger train assigned runs operating on Prairie and Pacific Regions as follows:

1. Between Thunder Bay and Winnipeg.
2. Between Winnipeg and Brandon.
3. Between Brandon and Moose Jaw.
4. Between Moose Jaw and Medicine Hat.
5. Between Medicine Hat and Field.
6. Between Field and Kamloops.
7. Between Kamloops and Vancouver.

The meetings required by Subsection (1) were held on the various territories between the Superintendents for the Company and the Local Chairman for the Union, at which time no agreement was reached on the proposed crew consist reduction. The Company then served the notice required by Subsection (3) upon the respective Local Chairmen and the General Chairman, of commencement of a survey period of one week on the respective runs, to be conducted at varying times on the two regions. In each survey, the Local Chairman observed such operations on their own territory.

The results of each survey were provided to the respective Local Chairmen and to the General Chairman, with the Company contention that the data supported its view that adequate safety could be maintained with a reduced crew consist and that no undue burden would be placed upon the members of the reduced crew stipulated in Subsection 2 as the determining factors in establishing a crew consist reduction.

Union representatives have opposed the Company's request for a reduced passenger train crew consist, on each of the seven assigned runs between Thunder Bay and Vancouver. In support of their position, on request by the Company, they have identified specific circumstances where, in their opinion, with a reduced crew consist (by elimination of head-end brakeman) adequate safety could not be maintained or undue burden would be placed upon members of the reduced crew. These specific circumstances are:

- (a) The head-end brakeman is required to assist the train conductor in checking the seating and ticketing of day coach passengers.
- (b) The head-end brakeman is required to assist other train crew members with the conduct of train patrols and running inspections.
- (c) The head-end brakeman is required to assist in the conduct of No. 2 (Intermediate Terminal) air brake test, when necessary.
- (d) The head-end brakeman is required to ensure proper protection and assistance to entraining and detraining passengers and to vestibule doors when train is standing at station or running between stations.
- (e) The head-end brakeman is required to assist train conductor in carrying out new and necessary procedures in respect of checking and further handling of passenger tickets.
- (f) The head-end brakeman is required to afford assistance in the control of inebriated or otherwise impaired and unruly passenger when necessary.

(g) The head-end brakeman is required to carry out certain incidental functions, when necessary, to ensure the comfort and convenience of passengers, i.e., by repair or replacement of defective electrical circuit breakers, by installation of train-line jumper cables between adjoining cars, by setting of lights and temperature controls for night or day operation, etc.

(h) The head-end brakeman is required to be in position to observe the regulations specified in the Uniform Code of Operating Rules, Form CS 44 and Special Instructions, to ensure the safe operation of the train.

FOR THE EMPLOYEES:

(SGD.) R T. O'BRIEN
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) W.J. PRESLEY
REGIONAL MANAGER, OPERATION AND MAINTENANCE

(SGD.) R. T. RILEY
REGIONAL MANAGER, OPERATION AND MAINTENANCE

There appeared on behalf of the Company:

P. A. Maltby	– Supervisor Labour Relations, Winnipeg
J. G. Benedetti	– Supervisor Labour Relations, Vancouver
J. P. Donahue	– Supervisor of Rules, Vancouver
R. Colosimo	– Manager Labour Relations, Montreal
J. Ramage	– Special Representative, Industrial Relations, Montreal

And on behalf of the Brotherhood:

R. T. O'Brien	– General Chairman, Calgary
A. G. Stacey	– Vice Chairman, Winnipeg
R. A. Beatty	– Secretary, Vancouver

AWARD OF THE ARBITRATOR

The issue in this case is as set out in the Joint Statement. The Union has, as required by clause 5(b)(4) of the collective agreement identified eight specific circumstances where, in their opinion, with a reduced crew consist adequate safety could not be maintained, or an undue burden would be placed on the members of the reduced crew. These circumstances are common to each of the seven assigned runs which are in issue.

From the survey reports, prepared pursuant to Article 5(b)(3) it is clear that the circumstances referred to affect each of the assignments in a substantially similar way. There are day-to-day variations in the work actually performed by the head-end brakeman within each of the assigned runs, and there are, overall, some variations as between one run and another, but it can nevertheless be said, after a study of the survey reports, that the circumstances in question may be considered with respect to all of the assigned runs. In the result, there is no ground for distinguishing one from another, and concluding that on one of the runs in question the crew could be reduced, whereas on others it could not. Such at least is my conclusion on the material now before me.

The task of the Arbitrator under article 5(b) is to consider the particular circumstances referred to by the Union, and to determine with respect to each of them whether the reduction in crew size suggested by the Company may be made with maintenance of adequate safety and without placing an undue burden on the members of the reduced crew. These circumstances will be considered in turn.

The first matter is the assistance of the train Conductor in the seating and ticketing of day coach passengers. From the survey material, it is clear that relatively little time was devoted by the head-end trainman to this task. This is not a matter relating to safety, the question is rather whether the removal of the head-end trainman would place an undue burden on the Conductor. It is my opinion, upon the material before me, that it would not. In the survey reports, the number of day coaches carried was very limited it may well be that if there were a particularly large train with many coaches there could be an undue burden placed on the Conductor if he were expected to handle a large number of passengers without assistance. However this may be, it is sufficient to say that, based on the survey reports, the seating and ticketing function could be handled by the Conductor without assistance, and that would not constitute an undue burden on him.

The second matter relates to train patrols and running inspections. There is no doubt that patrol of the train, and running inspection are necessary in the safe operation of these runs. There are, however, a number of persons with some responsibility in this respect. There are sleeping car and day coach porters, dining car staff, and a sleeping car conductor or conductors with, in varying degrees, some sort of responsibility with respect to the particular equipment with which they are involved. The engineman, of course, has his own responsibilities, but more important for this case are the rear-end trainman, the baggageman, and the conductor himself. In the course of their duties the rear-end trainman and the baggageman would appear to be restricted, perhaps in varying degrees, to the rear portion of the train, or the baggage car, respectively. To some extent, these persons can be assigned to patrol the train, and to a greater extent to carry out running inspections of the train. Neither of these is an onerous or time consuming responsibility. The Conductor himself carries out such duties in the normal course. Elimination of the head-end trainman would place only a slightly greater responsibility on the others with respect to these duties, there is already considerable duplication of effort in this respect. It would not, in my view, affect the safe operation of the train, and any additional burden on the others could not be said to be undue.

The third matter relates to the conduct of the intermediate terminal air brake test. At present this test is carried out, where required, by the engineman, the front-end trainman and the rear-end trainman. The purpose of the test is to ensure that the brakes on the rear car of the train apply and release. Responsibility for knowing that the test has been made is that of the engineman and conductor. The test itself can be conducted, as the survey reports clearly indicate, within a moment or two. The task of the front-end brakeman is merely to give a signal to apply brakes. It could be carried out by any member of the crew (except the rear-end brakeman), and in particular by the baggageman, who is usually in the proper position to give the signal in any event. The additional burden on him would be negligible; the test would continue to be carried out so that there would be no implication with respect to safety. In this respect, then, there is no doubt that the crew is reducible.

The fourth matter relates to the opening and closing of vestibule doors, and protection and assistance to entraining and detraining passengers where a train is moved with vestibule doors open, the doors must be protected. This is the responsibility of the Conductor and trainman. Whether or not they are able to meet this responsibility – in the relatively rare circumstances where it arises – depends on the number of doors involved. Even without crew reduction, it is necessary to ensure that unprotected doors are closed. In the event of crew reduction, the responsibility increases by one door. In one particular situation referred to, at North Bend, where the train is spotted twice for water, the situation could be avoided, as the Company points out, by the use of a longer hose. In any event, although meeting the requirements of safety may require a slight delay, or some additional equipment, the requirements of safety can easily be achieved in this way. The elimination of the head-end trainman would not make any decisive difference in this connection, nor would it have any significant effect on the work performed by others.

The assistance of passengers entraining and detraining is among the duties of both sleeping car and day coach porters. Since the number of passenger cars is much greater than the number of train crew members in any event, it is obvious that the crew's duties are of a rather general nature in this connection. In many instances detailed in the survey reports, the trainman, at least on arrival at his terminal, left this matter entirely to the day coach porter. I am unable to see that this matter relates to safety in any significant way, nor does it increase the load on others' who already have duties to perform. Its effect may simply be that there will be somewhat less assistance available to passengers. This may be regrettable from the public point of view, but it is not a matter affecting rights arising under the collective agreement.

The fifth matter relates to assistance to the conductor in procedures relating to checking and handling of passenger tickets. This is not a matter relating to safety, but raises only the question whether the elimination of the head-end brakeman would place an undue burden on the conductor in this respect. The Union in its objections referred to "new" procedures of ticketing, but in fact the new procedures which have been adopted by the Company reduce the amount of ticket-collecting work required of the Conductor. The use of ticket enveloping for tickets to a point beyond the Conductor's run, and the introduction of single ticketing, have this effect. The handling of seating plans is no longer necessary. In any event, from the survey reports, it is apparent that relatively little time was in fact devoted to this work. The remarks made with respect to the first matter apply as well to this. In my view the crew could be reduced without placing an undue burden on the members of the reduced crew in this respect.

The sixth matter relates to assistance in the control of inebriated or otherwise impaired and unruly passengers. In this connection, while there were incidents of untoward passenger conduct detailed in the survey reports, none arose which, in my opinion, could not have been handled without difficulty by other crew members in the absence of the

front-end trainman. Again, this is an area in which the amount of work required or likely to be required is a function of the size of the train and the number of passengers carried. The only materials on which I can rely are the survey reports, and from these it does not appear there would be any effect on safety, or any significant effect on the duties of others, by the elimination of the front-end trainman.

The seventh matter relates to the performance of incidental functions. A number of these were referred to by the Union, relating to the approach to tunnels, the use of retainers on certain grades, communication with the train dispatcher pursuant to Rule 264, manual operation of siding switches, and certain functions relating to train equipment. In none of the matters is the presence of the front-end trainman as such, necessary, although he may happen to be the member of the crew involved. In the matter of tunnel approaches, Special Instruction No. 9 does not impose duties on the front-end trainman in particular. The duties involved are, with the equipment now used, minimal, and the elimination of the front-end trainman would have, I think, no observable effect. The use of retainers is rarely necessary, and is not referred to in the survey data for the run between Field and Kamloops, with respect to which the matter was raised. In any event the procedure is a short and simple one, which could easily be performed by other crew members. In a number of cases in the survey reports the front-end trainman was in communication with the train dispatcher, pursuant to Rule 264. The rule, however, applies to any member of the crew, and it seems that on any of these occasions most other members of the crew would have been as available as the head-end trainman to carry out this function. The same must be said as to the lining of switches and the carrying out of certain minor repair functions. In total, these simple operations took up a very small portion of the on-duty time recorded in the survey reports.

The eighth matter relates to the observance of operating rules and special instructions, and to the effect that the elimination of the head-end trainman might have on these. Reference was made to the difficulties the rear-end trainman might experience in conducting required inspections to the rear where there are mail cars attached to the rear of the train. The Company's answer to this was that such cars are usually carried at night where inspections to the rear are not effective anyway; in any event, it is difficult to see how this would affect the front-end trainman. As to flag protection where such may be necessary on double track territory, the role of the head-end trainman could, in such rare cases, be performed by the baggageman.

From all of the material before me, it is apparent that, in the conditions under which these trains are now operated, and with the equipment and techniques used, the duties and responsibilities of the head-end trainman are very limited. It is only where, by reason of the number of passengers and passenger cars, the conductor could not carry out his own duties without assistance, that another crew member would be necessary to avoid placing an undue burden upon him. Such circumstances did not arise during the survey period. I am satisfied, having regard to the material before me, and on a consideration of the particular matters raised by the Union, that the head-end trainman could be eliminated without affecting the maintenance of adequate safety and without placing an undue burden on the members of the reduced crew. It may be repeated, however, that this determination is made, as it is required to be, having regard to the circumstances as set out in the survey reports made pursuant to article 5(b) of the collective agreement. It may also be repeated that whether the possible crew reduction is desirable from the point of view of efficiency or of service to the public are not matters which may properly be considered in these proceedings.

(signed) J. F. W. WEATHERILL
ARBITRATOR