

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 313

Heard at Montreal, Wednesday, October 13th, 1971

concerning

**CANADIAN PACIFIC LIMITED**

and

**UNITED TRANSPORTATION UNION (T)**

### **DISPUTE:**

Failure to agree on a yard crew consisting of one Foreman and one Helper on the 1630 Yard Assignment – Job 9A5 – at Thunder Bay.

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

Article 9, Clauses (b), (c) and (d) of the Yard Agreement, reads:

(b) Should the Company desire to abolish one helper position in any yard or transfer crew on which two helpers are employed in accordance with Clause (a) hereof, the Company shall notify the Local and General Chairman of the Union in writing of its desire to meet with respect to reaching agreement on a crew consist of one yard foreman and one yard helper. The time and place, which shall be on the Region 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 limits.

(c) 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. If the parties do not reach agreement at the meeting referred to in Clause (b) the Company may, by so advising the Local and General Chairman in writing, commence a survey period of five consecutive working days for the yard operations concerned during which Union Representatives may observe such operations. The survey period shall commence not 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.

(d) If after completion of the survey period the Union Representatives oppose the implementation of a two-man crew, such representatives will identify the specific moves which cannot, in their opinion, be performed safely with two men and the reasons therefor. If agreement cannot be reached by 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.

Notice was served upon the Local and General Chairman of the United Transportation Union (T) by the Company, of its desire to implement a two-man yard crew on the 1630 Yard Assignment - Job 9A5 – at Thunder Bay. A meeting was held on October 13, 1970, between the Superintendent for the Company and the Local Chairman for the Union, at which no agreement was reached on the proposed crew consist reduction. The Company then served notice on the Union that a survey period of five consecutive working days, November 2nd to November

6th, 1970, inclusive, would be conducted. This was done with the Local Chairman observing the operation on behalf of the Union.

The results of the survey, accompanied by supporting survey data, were provided to the Local and General Chairman, with the Company contention that the data supported its view that adequate safety, stipulated in Clause (c) as the determining factor in establishing a crew consist reduction, could be maintained on the assignment – Job 9A5 with a crew consist of one Yard Foreman and one Yard Helper.

Union Representatives have opposed the Company's request for implementation of a two man crew on this assignment and in support of their position, on request by the Company, have identified specific moves which cannot, in their opinion, be performed safely with a two-man crew on the following tracks:

A, C, E, F, G, I and R Yard tracks, Ogilvie Flour Mill Tracks, Shed Track #7 and R7 and RB, Shed Track #6 and LL-1, LL-2, LL-3, LL-4 and LL-5, Shell Oil Track 1-35, Texaco Oil Tracks I-49 and I-49A, Gulf Oil Tracks I-1, I-1A and I-1B.

**FOR THE EMPLOYEES:**

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

**FOR THE COMPANY:**

**(SGD.) W. J. PRESLEY**  
**REGIONAL MANAGER, OPERATIONS & MAINTENANCE**

There appeared on behalf of the Company.

P. A. Maltby – Supervisor Labour Relations, Winnipeg  
F. B. Reynolds – Assistant Supervisor Labour Relations, Winnipeg  
R. B. Bremner – Special Duties, Winnipeg  
J. Ryder – Yard Co-ordinator, Thunder Bay  
D. Wilson – Labour Relations Officer, Montreal

And on behalf of the Union:

R. T. O'Brien – General Chairman, Calgary  
P. P. Burke – Vice-General Chairman, Calgary  
J. G. Culliton – Local Chairman, Thunder Bay

**AWARD OF THE ARBITRATOR**

The Company seeks the reduction of the three-man crew heretofore used on the assignment in question, to a two-man crew. The Union has, in conformity with Article 9 of the Yard Agreement, specified certain moves which it is said, cannot be performed safely with a two-man crew. These moves are referred to in the Joint Statement of Issue.

The job in question, Job 9A5, provides switching service to various industries located mainly in G yard and on Islands 1 and 2, at Thunder Bay. It is not normally involved in the switching and marshalling of long cuts of cars.

With respect to some, but not all of the moves referred to in the Joint Statement of Issue the Union has indicated features which, in its view, would make it unsafe for a two-man crew to operate. With respect to each of these, the Company has either met the Union's contention or has indicated how, in its view, the move could be handled safely by a two-man crew. It is not necessary to repeat here the details of the parties' presentations. I am satisfied, however, that by the use of revised switching methods and the limitations in some cases of the number of cars handled, the work of the assignment could be performed with adequate safety.

The Union did not contend that a yard crew consist of a foreman and one helper could not do the work safely, but contended rather that such a crew could not perform the whole of the assignment with adequate safety. It may well be that there would be some loss of efficiency in operating an assignment such as this with a reduced crew. As has been pointed out in other cases, loss of efficiency is a risk the Company runs in determining to operate with a reduced crew. If it were evident that such a gross loss of efficiency would result as to make it unlikely that a two-man crew could even substantially perform the assignment, that would be a different matter. In the instant case on four of the five days covered by the survey the crew was finished its work well ahead of schedule. On the first day, the crew worked overtime, but this was attributable to an abnormal situation caused by a washout on the Nipigon Subdivision, east of Thunder Bay. It is true that there is always a risk of the unusual, and that the effects of such a situation might

be exacerbated if there were a two-man rather than a three-man crew. Nevertheless the risk is not one which bears directly on the question of crew size.

Upon a review of the specific moves referred to in the Joint Statement of Issue, and a consideration of the assignment as a whole, it is my conclusion that it may be safely performed by a crew of two. It is accordingly my award that the request of the Company be granted.

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