

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 356

Heard at Montreal, Tuesday, May 9th, 1972

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION (E)

DISPUTE:

Claim for an additional 100 miles in favour of Fireman/Helper V.E. Duncombe for turning units on the wye at Sarnia, Ontario upon arrival of train #151 on January 31, 1971.

JOINT STATEMENT OF ISSUE:

When trains #151-154 are operating with conventional passenger equipment during the winter months it is necessary to leave the locomotive on the train to heat the coaches during the layover period at Sarnia. To provide heating, the unit(s) on train #151 have to be watered prior to storing train in the passenger yard and as water is not available in that yard, the unit(s) is watered from a hydrant at the east end of the passenger station before train is yarded. It is also necessary on occasion to turn units on the wye in Sarnia yard to have them properly positioned for the return movement on train #154.

On January 31, 1971, the locomotive engineer and Fireman/Helper V.E. Duncombe were ordered at Toronto, Ontario for 1710 hours to operate train #151 from Toronto to Sarnia. They arrived at Sarnia at 2150 hours. Units 6625-6620 were turned on the wye and watered. The crew, including Fireman/Helper Duncombe were paid terminal time from 2150 hours until they went off duty at 2330 hours. Fireman/Helper Duncombe submitted a claim for an additional 100 miles for the time from 2150 to 2330 hours under Article 5 of the UTU(E) collective agreement.

FOR THE EMPLOYEES:

(SGD.) O. W. MILES
GENERAL CHAIRMAN

FOR THE COMPANY:

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

There appeared on behalf of the Company:

D. C. Fraleigh – System Labour Relations Officer, Montreal
C. F. Wilson – Labour Relations Assistant, Montreal
R. G. Anderson – Assistant Superintendent, Sarnia

And on behalf of the Union:

O. W. Miles – General Chairman, Lucerne

AWARD OF THE ARBITRATOR

Article 5 of the collective agreement, relied on by the Union, is as follows:

Article 5 – Definition of Separate Run:

Should firemen/helpers be used out of or at initial or distant terminal, after completing their regular assignments, a new day or trip will commence, except in cases where special duties, such as watching engines, etc., are required in connection with run.

Admittedly, there are certain duties which must be performed in connection with a run. It is not sufficient merely to arrive at the terminal and stop. Placing the train on a storage track, or the engines on shop tracks would, the Union acknowledges, be part of the crew's proper duties, as would, at least in some cases, the watering of the units. What is objected to here is the turning of the units on the wye.

Final terminal time is payable at the end of a trip "for all time required to be on duty" under Article 4B. But where firemen/helpers are used "after completing their regular assignments" then a new day or trip commences, as Article 5 provides. If it be considered that turning the units on the wye does not form part of the "regular assignments" of a crew arriving at Sarnia, then the question arises whether this work could properly be said to be "special duties ... in connection with run".

The instruction to turn locomotives on the wye was effective on when conventional engines were used. In this respect, perhaps, the duties were "special". The basic question, in any event, is whether such work is "in connection with" an arriving run. It could, it seems, be done by an outgoing crew, and the time so involved would be part of initial terminal time. The purpose of the instructions was to have cars properly positioned for the return movement. Leaving equipment properly positioned for others to use, however, is not the same thing as doing the work of others; on the contrary, it may well be regarded as the proper conclusion of one's own work.

The Union referred to Canadian Railway Board of Adjustment No. 1 **Case No. 413**, where a similar contention by the Union was sustained. There appear to be no reasons for the decision, although it seems that the turning of the engine in that case involved a trip of some fifteen miles, making more understandable the claim that a new trip had commenced. In the instant case, the Union stressed the words "... be used out of or at initial or distant terminal", but there is no question the crew was used. The question is, rather, whether they were used to turn the engine in connection with their run.

It would appear from what is set out above that the job of turning the engine where certain equipment is used is a sort of "special duty". The only example of a "special duty" given in the article is "watching engines", but it is clear there may be other sorts of special duties, and that of turning the engine would appear to be as much in connection with an incoming run as would that of watching engines. The turning of the engine so as to leave it properly headed for its next use is a task relating to the incoming run, although it expedites the following outgoing run, but it can scarcely be considered in itself a "separate run", constituting a new day or trip under Article 5, except where unusual circumstances, such as may have existed in **Case No. 413** of the Board of Adjustment, are found.

For the foregoing reasons, the grievance is dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR