

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 399

Heard at Montreal, Tuesday, March 13th, 1973

Concerning

**QUEBEC NORTH SHORE AND LABRADOR RAILWAY**

and

**UNITED TRANSPORTATION UNION (T)**

### **DISPUTE:**

Claim for payment of five hundred and ninety (590) miles by student engineman G. Mallet.

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

Pay Period was from Sept. 9 to Sept. 22, 1972. Trainman Mallet worked as a trainman from Sept. 9, until Sept. 13, 1972 and was paid accordingly.

The Union contends that student Mallet should be paid his time worked as student Engineman under paragraph four (4), letter of understanding June 29, 1972 signed by Mr. M. Michaud, Manager Railway which states that "Trainmen training as enginemen will be paid sixteen hundred and forty-three (1,643) miles per pay period at the engineman's basic rate."

The Railway contends that Mr. Mallet was paid correctly for that period as trainman and engineman.

The Union filed a grievance. The Railway rejected the claim.

### **FOR THE EMPLOYEES:**

**(SGD.) J. J. SIROIS**  
**GENERAL CHAIRMAN**

### **FOR THE COMPANY:**

**(SGD.) P. L. MORIN**  
**SUPERINTENDENT – LABOUR RELATIONS**

There appeared on behalf of the Company:

J. Bazin	– Counsel, Montreal
P. L. Morin	– Superintendent, Labour Relations, Sept-Îles
F. LeBlanc	– Labour Relations Assistant, Sept-Îles
T. Leger	– Labour Relations Assistant, Sept-Îles
W. Adams	– Trainmaster, Train Movements, Sept-Îles
R. Deschenes	– Chief Crew Dispatcher, Sept-Îles

And on behalf of the Brotherhood:

J. J. Sirois	– General Chairman, Sept-Îles
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**AWARD OF THE ARBITRATOR**

During the pay period in question, the grievor worked during a certain period as a brakeman, and he was paid for work so performed. He also worked as an engineman learner for some nine days during the period in question. The claim in this case is that the grievor be paid for 1,643 miles in respect of that period.

Entitlement to payment for work performed as an engineman learner is set out in the letter of understanding referred to in the Joint statement of Issue. The letter sets out the rate of payment as “sixteen hundred and forty-three (1,643) miles per pay period at the engineman’s basic rate”. In the instant case the grievor was not in fact training as an engineman throughout the pay period in question. The Company accordingly paid the grievor by prorating the mileage referred to in the letter of understanding over the nine days when the grievor was entitled to payment as an engineman learner.

The letter of understanding, which had formerly provided that enginemen learners be paid a fixed amount expressed in dollars per two-week period, now provides, as noted, for payment at the rate of a set number of miles per pay period. Where in fact an engineman learner exceeds that mileage within the pay period, it is carried forward into the next period. Where an engineman learner works as such throughout a pay period, then he would be entitled to payment at the rate set out, even though his actual mileage was less than that referred to. The reference to the number of miles is simply a method of setting out the rate to which the employee is entitled.

If the Union’s position is correct, an engineman learner assigned as such for one day or even one moment of a pay period would be entitled to the same payment as if he had worked during the entire period, and regardless of his other earnings. That is to read the provisions of the letter as a guarantee, not merely of a certain level of earnings, but of payment in respect of one classification only.

The collective agreement does provide certain guarantees (on a daily basis) and certain minimum mileages (over a pay period) for classes of employees there referred to. What is set out for engineman learners is in the form of a rate of pay payable in respect of work over a period of time. Where an employee is not entitled to the benefit of that provision for some portion of a pay period, then the proper course would be to prorate the amount payable over the time involved, as the Company did in this case. This is, it may be noted, the course agreed to by the parties in respect of certain trainmen, pursuant to Article 39.03 of the collective agreement, and it is consistent with the whole of Article 39 relating to method of payment.

For the foregoing reasons it is my conclusion that payment was properly made in this case. The grievance must accordingly be dismissed.

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