

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 472

Heard at Montreal, Tuesday, October 8th, 1974

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

DISPUTE:

The Union claims the Company violated Rule 13.13 of Wage Agreement 10.3 when the Company refused to pay the expenses of Work Equipment Operator P. Rossignol for the period October 15th to 18th inclusive. The claim is for \$54.80.

JOINT STATEMENT OF ISSUE:

Mr. Rossignol is a Machine Operator and was assigned to a board car at Fresniere, Quebec. The machine to which he was assigned was sent to the St. Henry Shop in Montreal for repairs. The grievor was instructed to report to the same shop while his machine was being repaired. The dispute involves whether transportation was offered the employee between his boarding car outfit and St. Henry Shop.

The Company says that transportation was offered the employee between his boarding car at Fresniere and the shop and that any travel time incurred would be included in the day's work. The employee says such transportation was not offered to him.

FOR THE EMPLOYEES: FOR THE COMPANY:

(SGD.) P. A. LEGROS (SGD.) G. H. BLOOMFIELD

SYSTEM FEDERATION GENERAL CHAIRMAN ASSISTANT Vice-President, LABOUR RELATIONS

There appeared on behalf of the Company:

W. H. Barton – System Labour Relations Officer, Montreal

J. E. Sauve – Roadmaster, Coteau

C. Pelletier – Work Equipment Supervisor, Montreal

C. LaRoche – Senior Labour Relations Assistant, Montreal

And on behalf of the Brotherhood:

P. A. Legros – System Federation General Chairman, Ottawa

R. Gaudreau – General Chairman, Montreal

P. Rossignol – Grievor

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AWARD OF THE ARBITRATOR

The grievor did report to the St. Henry shops while his machine was under repairs. It was the company's obligation either to pay the grievor's expenses, or to provide transportation from the St. Henry shops to Fresniere. The question at issue in this case is whether such transportation was

in fact made available to the grievor. If it was, but if he refused to avail himself of it, then of course he would not be entitled to claim his expenses as he has done.

Any clear resolution of the matter is most difficult on the material before me, even although this includes the testimony of the grievor and the work equipment supervisor. It is clear on the evidence that the provision of transportation from the St. Henry Shops to Fresniere "was not refused" (there seems to be no question as to the initial transportation). On the other hand, the company did not make clear – either at the hearing, or, at the time, to the grievor – just when and how transportation would be available to the grievor. The most that appears from the material before me is that when, at the end of the day, it was not made clear to the grievor what transportation arrangements had been made – or when he could not contact the responsible company officer – the grievor announced that he would take a room. While the grievor might indeed have been considered to be on overtime in the event of his being required to wait beyond his normal hours until transportation was available, even this would not impose on him an obligation to wait indefinitely, or an unreasonable time. In my view, in circumstances of this type, the company may provide transportation within reasonable times, ensuring that the grievor is explicitly advised thereof, or it must bear his proper expenses. In the instant case, while it would seem that the company had expected to provide transportation for the grievor at some point, it did not inform him thereof with any precision, and in the circumstances I conclude that transportation, while not refused, was not in fact provided within the meaning of the collective agreement.

Accordingly, the grievance is allowed.

(signed) J. F. W. WEATHERILL

ARBITRATOR