

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 585

Heard at Montreal, Tuesday, December 14th, 1976

Concerning

ALGOMA CENTRAL RAILWAY

and

UNITED TRANSPORTATION UNION (T)

DISPUTE:

Claim of Conductor J. Bain, Brakeman K. Cartmill and Baggage-man L. Gay for 356 miles at through freight rates on March 14, 1976 and for 329 miles at through freight rates on March 15, 1976.

JOINT STATEMENT OF ISSUE:

Conductor J. Bain and crew members mentioned in this dispute were assigned to Passenger Train Service working Train No. 1 – Sault Ste. Marie to Hearst, Ontario and Train No. 2 – Hearst to Sault Ste. Marie, Ontario, working alternate days Friday to Monday inclusive. On March 14 and 15 a “Flanger” was handled on Passenger Trains No. 1 and No. 2 between Sault Ste. Marie and Hearst and return to Sault Ste. Marie. The crew were compensated at Passenger Rates of Pay as per past practice in accordance with Article 1(a) of the Collective Agreement.

The Organization contends that inasmuch as the “Flanger” is not considered as passenger equipment that payment at through freight rates of pay as per Article 7(d) of the Collective Agreement should be paid.

The Company contends that the basis of payment to Passenger Crews was determined by the then Canadian Railway Board of Adjustment when dealing with Case No. 717, on February 10, 1959 and has declined payment of the claim submitted by the Organization.

FOR THE EMPLOYEE:

(Sgd.) J. SANDIE
GENERAL CHAIRMAN

FOR THE COMPANY:

(Sgd.) S. A. BLACK
GENERAL MANAGER – RAIL DIVISION

There appeared on behalf of the Company:

V. E. Hupka – Manager Industrial Relations, Sault Ste. Marie
N. L. Mills – Superintendent-Transportation, Sault Ste. Marie

And on behalf of the Brotherhood:

J. Sandie – General Chairman, Sault Ste. Marie

AWARD OF THE ARBITRATOR

This case appears to have arisen because of the feeling (whether justified or not) of the grievors that the Company did not consider a flanger to be passenger equipment. Since the addition of the flanger to the train consist resulted in a requirement for a spare conductor which was not met, it may be that some Company official made some statement to that effect. Any such statement would be inaccurate, and at the hearing of this matter the Company stated as its position that a flanger was a piece of work equipment properly adapted to be added to passenger trains. This would appear to be consistent with the decision in **Canadian Railway Board of Adjustment No. 1 Case No. 717**, and would appear to be correct. In the instant case, the Company did pay the claim of an assistant conductor who ought to have been part of the crew on the day in question.

Article 7(d) of the collective agreement is as follows:

7 (d) Passenger train crews, when handling a freight car or cars not express enroute will be paid through freight rates for actual mileage with such car or cars.

This article does not support the grievors' claim. They were not "handling a freight car or cars not express enroute", and the article has no application in the instant case. There was a requirement, due to the addition of the flanger to the train consist of an augmented crew, but I was not referred to any provision of the collective agreement which calls for any special recompense to the actual crew members where a run is short-handed. There was, as has been noted, payment to the extra man who was not called.

For the foregoing reasons, the grievance must be dismissed.

(sgd.) J. F. W. WEATHERILL
ARBITRATOR