

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 608

Heard at Montreal, Tuesday, June 14, 1977

Concerning

QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

UNITED TRANSPORTATION UNION (T)

DISPUTE:

Conductor M. D'Amours claims the Railway cut 1/2 hour off on time on duty for the following days: August 2, 3, 5, 11, 12, 1976.

JOINT STATEMENT OF ISSUE.

On August 3, 11 and 12, 1976 conductor M. D'Amours was in work train service and claims he started to work at 07:00 on the 2nd, 3rd and 5th of August, at 05:30 in the 11th and 12th of August.

The Railway maintains that trainman in work train service according to circular no. 24 dated January 11th, 1976 must take their instructions from the Maintenance of Way foreman. The Railway's situation train report indicates that the train order time was 07:30 on the 2nd and 3rd, 5th of August and 06.00 on the 11th and 12th of August. The grievance was denied.

FOR THE EMPLOYEE:

(SGD.) G. ROBICHAUD
VICE CHAIRMAN

FOR THE RAILWAY:

(SGD.) F. LEBLANC
SUPERINTENDENT – LABOUR RELATIONS

There appeared on behalf of the Company:

J. Bazin – Counsel, Montreal
G. A. Dolliver – Superintendent, Train Movement, Sept-Îles
J. Y. Tardif – Assistant – Labour Relations, Sept-Îles
C. Nobert – Assistant – Labour Relations, Sept-Îles

And on behalf of the Brotherhood:

R. Cleary – Counsel, Montreal
G. Robichaud – Vice-Chairman, Sept-Îles

AWARD OF THE ARBITRATOR

The question to be determined is this: at what time did the grievor properly start work on each of the days in question? There is no direct evidence on the question, so that it is not a matter of preferring one person's testimony over that of another.

The work train line up, prepared on August 1 for work to be performed the next day, shows (to take the first day for which claim is made as an example) that the grievor was scheduled to start work at 07:30. The schedule, however, is subject to change, and it could be that the grievor would be directed to start work at some other time. A more reliable document for pay purposes is the train sheet, prepared by the dispatcher on the basis not only of the line up, but also of any other material information supplied, for example, by the foreman or the conductor.

In the instant case, the grievor does not appear to have been working under the direct supervision of a foreman, and it may not have been feasible to have the latter verify the grievor's time tickets. Neither the grievor nor the foreman advised the dispatcher of any change in the grievor's hours from those noted in the line-up, so that the train sheet was prepared on the basis of the schedule, there being no other information submitted. It may be noted that whereas the line up showed the grievor as scheduled to start at 07:30 on August 12, the train sheet shows him as having started at 06:00. That would be on the basis of the advice given the dispatcher. There is no record, apart from the subsequent time claim, to support the grievor's contention that he started work at 05:30 on that day.

On the basis of the objective evidence, it is the train sheet that should be relied on to determine times worked, unless there has been some dispute as to the particular entries being made. It should be added that where an employee works extra time without authorization, he cannot thereby extend his entitlement to payment. There is nothing to suggest, however, that that is what happened in this case.

For the foregoing reasons, the grievance is dismissed.

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