

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 650

Heard at Montreal, Tuesday, January 10, 1978

Concerning

ONTARIO NORTHLAND RAILWAY

and

UNITED TRANSPORTATION UNION (T)

EX PARTE

DISPUTE:

Failure to agree on a passenger crew consist of one conductor and one brakeman for all TEE train passenger service.

COMPANY'S STATEMENT OF ISSUE:

On June 29, 1977, notice was served upon the General Chairman of the United Transportation Union by the Company, in accordance with Article 10.2 of the Collective Agreement, of its desire to meet with representatives of the Union with respect to reaching agreement on a reduced crew consist for the manning of all "TEE" train operations. A meeting was held on July 18, 1977 at which no agreement was reached. The Company then served notice on the Union that a survey period of one calendar week, commencing on August 10, 1977 would be conducted.

The Company contended that the results of the survey supported its view that: **1.)** Adequate safety can be maintained with the proposed crew consist reduction; and **2.)** Such reduction will not result in undue burden being placed on the reduced crew. These are the two conditions set forth in Clause (b) of Section 1.

The General Chairman of the Union, in a letter dated October 6, 1977, contended that adequate safety cannot be maintained with the reduced crew for the following two reasons: **1.)** The equipment itself is only in the experimental stage, and **2.)** This train will be operating on 70 miles of unprotected track.

Also in the letter of October 6, 1977 the General Chairman stated that there would be a definite burden placed on the remaining members of the crew because of the following: **1.)** Brake test is required at CN station North Bay; with two doors open this procedure requires 3 men. **2.)** At all intermediate stations both doors are open conductor directs passengers to proper accommodation. **3.)** At register stations with two doors open requires 3 men. **4.)** Trainmen are assisting passengers, particularly the elderly with hand baggage. Women assisted with small children. **5.)** The services of a second trainman is absolutely essential if a conductor has difficulty with reference to the Uniform Code of Operating Rules General Rule E. **6.)** Trainmen handle all switches both entering and leaving sidings. **7.)** Trainmen required to make periodic inspection of coaches, observe hot-box indicators. **8.)** Trainmen are assisting the conductor to check the passengers and also assist passengers who wish to be transferred to another seat.

FOR THE COMPANY:

(SGD.) F. S. CLIFFORD
GENERAL MANAGER

There appeared on behalf of the Company:

A. Rotondo – Manager Labour Relations, North Bay,
 D. V. Allen – Director Personnel & Labour Relations, North Bay
 J. J. King – Mechanical Officer, Technical, North Bay
 D. K. Hagar – Trainmaster, Englehart

And on behalf of the Brotherhood:

B. F. Newman – General Chairman, North Bay
 A. E. Souliere – Local Chairman, North Bay

AWARD OF THE ARBITRATOR

Under the applicable provisions of the collective agreement a reduction in crew consist is possible provided that adequate safety can be maintained with the proposed reduction and that such reduction will not result in undue burden being placed on the reduced crew. Where a reduction is proposed, the collective agreement provides for a survey period, and for the destination of specific reasons why the conditions just mentioned cannot be met. The objections which must be dealt with in the instant case are set out in the Statement of Issue.

As to the first two objections, which are set out in general terms, it is not the case that the rail equipment itself is “experimental”. The Company is “experimenting” in that it is using the equipment for the first time, in the hope that the new type of service being offered will be successful on its runs. The equipment itself has been in service for many years on European lines. While there may be certain problems relating to the adaptation of the equipment to Canadian conditions, these are not the sort of problems which create any significant dangers, and the train crew are certainly not called on to assist in an “experiment” in any significant sense. While there have been problems with the equipment in some instances, there were not serious ones during the survey period, and there is no substantial basis for concluding there would be many more problems than with other equipment.

While the runs on which the equipment is to be used includes 70 miles of “unprotected” track in the sense that it is train order territory, there are protections imposed under the Uniform Code of Operating Rules. Protection is provided, essentially, by the control of movements through that territory in accordance with train orders. If circumstances were to arise in which the train crew itself were required to give physical protection, as by flagging, the requirements of the Rules can be met, I find, by the members of a reduced crew. I think there is really no significant difference in this respect between the safety of present operations and the safety of the proposed operations.

In considering the role and sufficiency of a reduced crew for the operation in question, I bear in mind that the operating crew of the train includes a locomotive engineer and a reserve engineer, that there is communication between the train crew and the engine crew, and that there is an interior passageway from the train to the cab of the engine. Further, the overall length of the train is less than half that of the regular train operated by a three-man crew, and the number of passenger cars is reduced by half. The train makes six rather than eight regular passenger stops, and there is no switching performed, whereas units had to be cut off at two points on the regular run. There is no baggageman on the TEE train, as there is no baggage car. There is a dining car staff of four, as I presume there was on the regular train.

I shall deal with the detailed objections in turn. First, the brake test. This requires two men. It is performed by a conductor and a brakeman on the conventional train. The conductor and brakeman will continue to be responsible for such test on the new equipment. For proper control of the train, the test should be performed after one of the doors has been closed. This will involve a slight delay, after passengers are loaded. The delay is one which the Company is prepared to accommodate. There is, in these circumstances, no effect on safety or on the crew’s workload.

Second, the manning of doors at intermediate stations requires, where both doors are used, two men. Seats on the train are reserved, and entraining passengers can be directed to proper accommodation from the door. This does not involve a problem of safety, and does not alter the work load of the crew members at the doors, although there may be some additional work required in dealing with passengers who somehow cannot find their seats or wish to change them. This is a normal function of the crew and would not, in my view constitute an undue burden. The Union referred to problems caused by passengers bringing an excessive amount of hand baggage – or perhaps items that are not properly hand baggage – aboard the train. The crew’s job in this respect is to assist passengers to the

extent reasonably possible, but the proper definition and control of what is hand baggage is a matter for the Company. Any increase in work load in this respect is not so much a matter of crew size as of passengers' compliance with baggage regulations.

Third, the registering of the train is done at three points, at the initial and final station, and at Englehart (register tickets being used at Swastika and Porquis). At the initial and final stations registering can be done before passengers arrive or after they have been cleared. At Englehart, where there is a five minute stop, the conductor can register after having closed his door. If on some occasions this should cause a delay, the Company is prepared to accept it. There is no problem of safety or of increased burden on the crew in this respect.

Fourth, assistance of passengers is an obligation which the crew meets to the extent reasonably possible. In my view, the reduction of the crew, having regard to the nature of the equipment, will not result in any substantial increase in work load – which varies with the traffic in any event – and in no “undue burden”.

Fifth, as to the necessity for a three-man crew in dealing with obstreperous passengers (which seems to be the import of this objection), given the configuration of the train – essentially, two coaches separated by a diner, which has a staff of four – it is my view that a two-man crew would be ample to deal with such incidents as might take place. None were reported during the survey period. This is not really a matter of work load, but one of safety, and I am satisfied there is no significant effect on the safety of this operation in the reduction of the train crew.

Sixth, the involvement of the train crew in handling switches is negligible, and is indeed less than with the conventional equipment. This objection does not bear on safety. From the point of view of work load, the use of the new equipment reduces the burden, slight as it is, on employees.

Seventh, train inspection will continue to be carried out by all crew members. There is no increase in individual burden, and the reduced length of the train may be thought to reduce the scope of this task. On the other hand, use of what is, for this Company, new equipment, may call for increased inspection. The net result of this does not involve any loss of safety or increased burden of work.

Eighth, since the number of stops made by the new equipment is reduced, and since on conventional equipment, with more stops and a longer train, the work of checking and assisting passengers is done by two of the crew members. I am unable to conclude that the reduction of the crew on the TEE train would result in any significant increase in work load. There is ample time between stops to accomplish these tasks, including the verification of the seating diagram.

I am satisfied from a consideration of all the objections which have been raised, from a consideration of the nature of the equipment and the changes which have been made in the runs in question as a result of its use, and from a consideration of the survey that the proposed crew consist reduction can be made with maintenance of adequate safety and without an undue burden being placed on the reduced crew, and I so declare.

(signed) J. F. W. WEATHERILL
ARBITRATOR