

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 694

Heard at Montreal, Tuesday, December 12th, 1978

Concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

and

**CANADIAN BROTHERHOOD OF RAILWAY,  
TRANSPORT AND GENERAL WORKERS**

### **DISPUTE:**

Time claims on behalf of Mr. B. Keyser in the amount of 8 hours at Sleeping Car Conductor's rate on June 12, 18, and 22, 1977 and on behalf of Mr. D. Nadler in the amount of 8 hours at Sleeping Car Conductor's rate on July 6, 1977.

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

On the above dates, Messrs. Keyser and Nadler were respectively assigned to the spare board at Vancouver, B.C., and were called to handle extra equipment assigned to train No. 2, under the provisions of Article 4.18 (a) of Agreement 5.8. The employees were informed at the time to call that they would operate Vancouver to Jasper and return to Vancouver on first available train.

The employees worked Vancouver to Jasper, at which point they were released from duty and returned the next day to Vancouver on Train No. 1, the first available train. The cars to which the grievors were assigned were removed from the train at Jasper while the remainder of the train and the regular crew continued to Winnipeg.

The grievors were paid in accordance with the Collective Agreement on the basis that Jasper was their destination terminal. The grievors submitted time claims under the provisions of article 4.18 (c) on the grounds that Jasper was a point en route. The Company has declined the claims on the basis that for the assignments for which the employees were called, Jasper was not a terminal en route but their destination terminal and no additional payment was due the employees in line with the provisions of Article 4.18 (d) (ii) of Agreement 5.8.

The grievances were processed through all steps of the grievance procedure.

### **FOR THE EMPLOYEES:**

**(SGD.) J. A. PELLETIER**  
**NATIONAL VICE-PRESIDENT**

### **FOR THE COMPANY:**

**(SGD.) S. T. COOKE**  
**ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS**

There appeared on behalf of the Company:

A. D. Andrew – System Manager Labour Relations, VIA Rail Canada Inc., Montreal  
K. G. Macdonald – System Labour Relations Officer, Montreal  
K. J. Knox – Labour Relations Assistant, Montreal  
R. Arnold – System Manager On-Board Services, VIA Rail Canada Inc., Montreal

And on behalf of the Brotherhood:

R. Henham – Regional Vice President, Vancouver  
J. D. Hunter – Regional Vice President, Toronto  
D. A. Dalby – Local Chairman, Vancouver

### AWARD OF THE ARBITRATOR

Article 4.18 of the collective agreement is as follows:

- 4.18 (a)** Employees assigned to a special train (or sections thereof) or extra equipment attached to a regular train (or sections thereof) and employees used to augment regular crews shall be considered as employees assigned to a special movement.
- (b)** Employees assigned to special movements will be paid from the time required to report for duty until released from duty, with deductions made for rest periods in accordance with Article 4.17.
- (c)** Employees assigned to special movements and held at a point en route will be paid eight hours for each 24-hour period so held or actual time of up to eight hours for less than a 24-hour period, computed from expiration of eight hours after arrival at such point or after completion of duties related to his assignment.
- (d)** Employees assigned to special movements and held at the distant terminal will be paid held time as follows:
- (i)** Employees assigned to a special train (or sections thereof) will be paid eight hours for each 24-hour period or actual time of up to eight hours for less than a 24-hour period, computed from expiration of eight hours after release from duty.
- (ii)** Employees assigned to extra equipment attached to a regular train (or sections thereof) and employees used to augment regular crews who are held beyond the regularly scheduled departure time of the first train returning to their home terminal following expiration of eight hours after their release from duty will be paid eight hours for each 24-hour period so held or actual time of up to eight hours for less than a 24-hour period. Time in such cases to start at the expiration of eight hours after release from duty.

The grievor was assigned to extra equipment attached to a regular train. For the crew of the regular train, their home terminal was Vancouver and their distant terminal was Winnipeg. The grievor, however, was not part of the regular train crew. His was not a regular assignment, and was not covered by an Operation of Run Statement. He was called, quite properly, from the spare board, and the assignment for which was called was to operate Vancouver to Jasper and return to Vancouver on the first available train. He was, quite clearly, an employee assigned to a special movement within the meaning of Article 4.18(a).

As an employee assigned to a special movement the grievor was, under Article 4.18(b) entitled to payment from the time required to report for duty until released from duty, subject to certain deductions. No question arises as to that. The question in the instant case is as to the basis of payment to the grievor in respect of time held at Jasper, pending his return to Vancouver on the first available train. He was in fact paid pursuant to Article 4.18(d)(ii), as an employee assigned to a special movement and "held at the distant terminal". The Brotherhood contends that the grievor should be paid pursuant to Article 4.18(c), as an employee assigned to a special movement and "held at a point en route".

The question is whether, in terms of the grievor's assignment, Jasper was "the distant terminal", or whether it was "a point en route". The fact that Jasper might, with respect to certain other assignments, be "a point en route" has no bearing on whether or not it was "the distant terminal" of the grievor's assignment. On the regular train from Vancouver to Winnipeg, Jasper would be "a point en route". But the grievor's was not a regular assignment on that run. He was assigned to a special movement, and that movement involved a run from Vancouver to Jasper. In my view, the only proper conclusion, in the circumstances of this case, is that Jasper was "the distant terminal" of the grievor's assignment. I therefore find that when the grievor was held at Jasper he was entitled to payment pursuant to Article 4.18 (d).

There was, therefore, no violation of the collective agreement, and the grievance must be dismissed.

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