

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 701

Heard at Montreal, Tuesday, March 13, 1979

Concerning

VIA RAIL CANADA INC.

and

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

DISPUTE:

Claim dated August 17, 1978, on behalf of Sleeping Car Conductor D.J. Smith, Jasper.

JOINT STATEMENT OF ISSUE:

Trains 9 and 10 operate between Jasper, Alberta and Prince Rupert, B.C., normally with one sleeping car. On August 16 two additional sleeping cars were deadheaded Jasper to Prince Rupert, and placed into service the following day for the trip from Prince Rupert to Jasper.

The Brotherhood contends that, because there were three sleeping cars in service from Prince Rupert to Jasper, a sleeping car conductor should have been added to the crew, at Jasper pursuant to Article 23.3 of the Collective Agreement. Mr. D.J. Smith, who was available at the time, would have been entitled to the work if the Corporation had employed a sleeping car conductor. He would have been paid 12 hours deadhead, and 19.25 hours in service.

The Corporation declined the claim, contending that Prince Rupert does not constitute an "originating terminal" and that Article 23.3 consequently does not apply.

FOR THE EMPLOYEE:
(SGD.) J. D. HUNTER
ACTING NATIONAL VICE-PRESIDENT

FOR THE COMPANY
(SGD.) A. D. ANDREW
SYSTEM MANAGER, LABOUR RELATIONS

There appeared on behalf of the Company:

A. D. Andrew – System Manager, Labour Relations, Montreal
A. Leger – Labour Relations Officer!
G. E. Proulx – Supervisor On-Board Services, Jasper

And on behalf of the Brotherhood:

R. Henham – Regional Vice-President, Vancouver

AWARD OF THE ARBITRATOR

Article 23 of the collective agreement deals generally with the matter of "Composition and Adjustment of Crews" and sets out the minimum crew complements required for various types of service and conditions. Article 23.3 is as follows:

23.3 When a train leaves an originating terminal with three or more sleeping cars and up to six sleeping cars in revenue service a Sleeping Car Conductor will be operated.

In terms of the collective agreement, the issue to be decided in this case is whether or not Prince Rupert was "an originating terminal" within the meaning of Article 23.3, in the circumstances of this case. If it was, then the grievance must succeed.

It is the Union's contention that Prince Rupert was an originating terminal because it was at that point that Train No. 10, Prince Rupert to Jasper, originated. That was the point of origin for that particular train, and it so appears in timetables and the like. It is the Company's contention, however, that Prince Rupert was, rather, a turn-around point, and for this it relies on the Operation of Run Statement which sets out the work schedules for the crews which operate the run from Jasper to Prince Rupert and return. From the crew's point of view, Jasper is the home terminal and Prince Rupert is the distant terminal and thus a turn-around point.

The same geographical location may be, at one and the same time, a "point en route", a "turn-around point" and an "originating terminal", and may as well be characterized in a number of other ways, depending on the circumstances and the purpose for which the characterization is made. For purposes to which the Operation of Run Statement is material, it would seem that Prince Rupert, as far as the crews of trains 9 and 10 are concerned, should be described as a "turn-around point". Article 23.3, however, does not necessarily refer to the terminal where a "trip" commences, when it refers to an "originating terminal". It refers, of course, to the situation where a "train" includes certain equipment, and it provides that there should be a Sleeping Car Conductor operated where such equipment is part of the train - when the train leaves an originating terminal with such equipment. In construing this provision, regard must be had to its obvious purpose which, as in Article 23 generally, is to ensure adequate staffing. The determination of the crew consist is to be made having regard to the situation at the "originating terminal", so that the Company is spared the problems which would arise if additional staffing requirements arose, say, at some point en route. But the requirement of adequate staffing is one which relates, in the nature of things, to the equipment of which a "train" is made up, and it is the point of origin of the train, rather than the crew, which is to be considered in determining whether the staffing requirements have been met.

In the instant case, Train No. 10 may include the same (or some of the same) equipment as train No. 9, it may be operated by the same (or some of the same) crew; its operation may represent only a portion of that crew's overall assignment. However all that may be, it is a distinct train in the timetable sense, and certainly, on the occasion in question, it was a very different operation from train No. 9 in terms of the equipment used and the service provided. The terminal where that train originated was Prince Rupert. In my view, therefore, Prince Rupert is to be considered the "originating terminal" for train No. 10, within the meaning of Article 23.3, and for the purposes of that provision.

Accordingly, the grievance is allowed.

(signed) J. F. W. WEATHERILL
ARBITRATOR