

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 724

Heard at Montreal, Wednesday, October 10, 1979

Concerning

### QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

### UNITED TRANSPORTATION UNION

#### **DISPUTE:**

Time claim for switching at siding.

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

On May 30th, 1979, the train EL-085 Northbound arrived at Faden at 04:45 hrs. and stopped at this point to meet incoming train KL-085 Southbound. Due to a draw bar breakdown, train KL-085 was delayed at Menihék and arrived at Faden at 11:20 hrs. The two trains had to make a locomotive exchange at Faden between 11:20 hrs. and 12:40 hrs. and the two crews were paid switching time according to paragraph 25.02 of the Collective Agreement.

The Union has filed a grievance claiming switching time for the crew of train EL-085 from 04.45 hrs. until 12:45 hrs.

The Railway rejected the grievance.

#### **FOR THE EMPLOYEE:**

**(SGD.) L. LAVOIE**

**GENERAL CHAIRMAN**

#### **FOR THE COMPANY:**

**(SGD.) R.L. BEAULIEU**

**SUPERINTENDENT, LABOUR RELATIONS**

There appeared on behalf of the Company:

|                |   |
|----------------|---|
| S. Deslauniers | – Counsel, Montreal                             |
| J. Bazin       | – Counsel, Montreal                             |
| R. L. Beaulieu | – Superintendent, Labour Relations, Sept-Îles   |
| R. P. Morris   | – Superintendent, Labour Relations, Sept-Îles   |
| J-P Morel      | – Assistant Labour Relations Officer, Sept-Îles |
| J. P. Chenier  | – Train Dispatcher, Sept-Îles                   |
| R. B. Copp     | – Chief Clerk, Sept-Îles                        |

And on behalf of the Brotherhood:

|                 |                                 |
|-----------------|---------------------------------|
| J. M. St.Pierre | – Local Chairman, Sept-Îles     |
| D. McLean       | – Local Chairman, Labrador City |

## AWARD OF THE ARBITRATOR

The crew of train EL-085 was on duty from 0300 to 1440 on the day in question. They were paid for initial and final terminal time, and for road time. Since they were on duty more than eight hours, they were entitled to overtime in respect of time on duty beyond eight hours. Under Article 4.01 (a) of the collective agreement, they were entitled to payment for the greater of hours on duty or miles run. In this case, they were paid the equivalent of 11 hours and 40 minutes, 3 hours and 40 minutes of which was overtime. The total expressed in miles was 216 miles. The crew claims, in addition to this, payment of the equivalent of 55 miles in respect of switching performed en route.

Article 25.02 of the collective agreement provides as follows:

**25.02** Trainmen in ore and unassigned freight service required to pick-up and/or to set-off or perform switching enroute will be paid on the minute basis computed from fifteen (15) minutes after time of arrival to time of departure, in addition to pay for the trip. Work trains are to be excluded from the application of this Article.

It is acknowledged that this provision applies in the circumstances of this case. The crew was in fact required to perform certain switching en route, namely an exchange of locomotives with train KL-085. This sort of extra work is to be paid for, as Article 25.01 makes clear, "in addition to pay for the trip". Payment is on a minute basis, and it seems clear that it is intended to be in respect of actual working time. Thus, in the French text it is provided that payment is to be made "*pour tout le temps de l'opération*". The references, in both texts, to arrival and departure time are to be understood in the light of this language.

In the instant case, when train EL-085 arrived at Faden, it was not for the purpose of performing switching en route, but for the purpose of meeting train KL-085. That train was delayed, and so the crew had simply to wait (on duty and subject to payment) until it arrived. It was on the arrival of KL-0b5 at Faden, at 11:20, that the performance of switching was required, and the crew would be entitled to payment pursuant to Article 25.02 for the period from 11:35 until the conclusion of that operation at 12.40. The crew of train EL-085 were not, however, entitled to payment in respect of switching from the time of their arrival at Faden, that is, at 04:45. At that time, as I have said, they were simply there to meet the other train.

It is said in the joint statement that the crew was paid pursuant to Article 25.02 in respect of the period from 11:20 to 12:40. In the light of that joint statement, it is sufficient for me simply to remark that the payment is to be made "in addition to pay for the trip" ("*en plus du montant normal du parcours*"). There was not, however, occasion for payment under Article 25.02 from 04.45 in these circumstances. On that ground, the grievance must be dismissed.

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