

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 752

Heard at Montreal, Tuesday, May 13th, 1980

Concerning

QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

UNITED TRANSPORTATION UNION (T)

DISPUTE:

Claim for payment of a basic day plus initial and final terminal time in addition to time paid (10.05 hours) for switching.

JOINT STATEMENT OF ISSUE:

On October 26th, 1979, a train crew was ordered for 10:25 hours at Mai (Mile 128.1) to take over train EL467, to switch certain cars off their train and then to proceed to Esker.

The crew never did proceed to Esker; instead they performed switching of cars at Mai until 20:30 hours at which time trainman Dupuis booked rest. The rest booked by Dupuis did apply to all the crew as per paragraph 16.07 of the Collective Agreement. Each member of the crew was paid on the minute basis from 10:25 to 20:30 hours in accordance with paragraphs 2.01, 4.01(a) and 25.01 of the Collective Agreement.

The Union claims that the crew had to proceed to Mile 132 on main track in order to perform the switching and therefore should be paid the basic day (128 miles) as per paragraph 2.02 of the Collective Agreement in addition to initial and final terminal time in accordance with paragraphs 3.01 and 3.02.

The Railway maintains the crew did not perform road service but switching only and were paid correctly. The grievance was rejected.

FOR THE EMPLOYEES:

(SGD.) L. LAVOIE
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) R. BEAULIEU
MANAGER, LABOUR RELATIONS

There appeared on behalf of the Company:

J. Bazin	– Counsel, Montreal
R. Beaulieu	– Superintendent, Labour Relations, Sept-Îles
R. P. Morris	– Superintendent, Labour Relations, Sept-Îles
B. Adams	– Trainmaster, Sept-Îles
C. Nobert	– Labour Relations Assistant, Sept-Îles
M. Tardif	– Labour Relations Assistant, Sept-Îles

And on behalf of the Brotherhood:

L. Lavoie	– General Chairman, Sept-Îles
-----------	-------------------------------

AWARD OF THE ARBITRATOR

In this case the Union claims payment of a basic day, plus payment of initial and final terminal time, for the crew in question. It would appear that this is a claim for payment in addition to the payment made to the grievors for work performed.

The grievors were called to take over a train, perform certain switching, and proceed to Esker. Had these operations been carried out, then payment as claimed would appear to have been appropriate. That is not, however, the work which was accomplished, because of the time involved in switching. All of the movements carried out were switching movements. Some of these required use of the main track, but the train never in fact departed for Esker. If it be considered that their time was all the equivalent of "initial terminal time", then it might be thought the grievors were entitled to payment under Article 3.01. That would involve payment on a minute basis, and the grievors were, in fact, paid on that basis. Payment of "initial and final terminal time" however, contemplates a trip from one point to another, and that never took place in this case. The main track usage was, as I have noted, part of the switching operation and not part of a trip to Esker in this case.

Accordingly, since no trip occurred, it is my view that the crew was properly paid on the minute basis, from reporting time until time off duty, with overtime after eight hours. The crew went off duty when rest was booked by trainman Dupuis. In the joint statement it is said that such rest applied to all the crew pursuant to Article 16.07 of the collective agreement. Article 16.07, however, applies to cases where rest is booked "on the road", and for the reasons set out above I would not consider that that applies in this case. It would appear that the Union is correct in referring to Article 16.02(b) which would have permitted the continued use of the other crew members. It does not appear, however, that that article gave the other crew members the right to continue on duty indefinitely. The Company was entitled to direct them to stop work, and they certainly were paid more than the "basic day".

For the foregoing reasons, it is my view that the crew in question were not entitled to any greater payment than that which was made. Accordingly, the grievance must be dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR