CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 755

Heard at Montreal, Tuesday, May 13th,1980

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION (T)

EX PARTE

DISPUTE:

Results of the "Trial Period" on the operation of unit trains between Atikokan and McKellar Island (Thunder Bay, Ontario)

EMPLOYEES' STATEMENT OF ISSUE:

Inability of the Company to agree with the United Transportation Union (T) that the time of road crews for eating should not have been deducted in the calculation of the total time the crews were on duty.

There is no provision in the Agreement signed 24 November, 1978 for the Railway to use rates of pay between yard crews and road crews in comparison.

There is no breakdown of the work yard crews performed before arriving at Mile 9.0 to spot first car.

FOR THE EMPLOYEES:
(SGD.) L. H. MANCHESTER
GENERAL CHAIRMAN

There appeared on behalf of the Company:

L. R. Weir	– System Labour Relations Officer, Montreal
G. E. Morgan	– Director, Labour Relations, Montreal
J. A. Cameron	– Regional Labour Relations Officer, Winnipeg
R. W. Evans	– Superintendent, Thunder Bay
K. G. Fidler	– Trainmaster, Thunder Bay
G. T. Holden	– Research Analyst, Winnipeg
H. Koberinski	– Labour Relations Assistant, Montreal
E. Johannesson	– Co-ordinator Special Projects, Transportation, Montreal

And on behalf of the Brotherhood:

L. H. Manchester	– General Chairman, Winnipeg
R. T. O'Brien	– Vice President, Ottawa
W. T. Drew	– Local Chairman, Thunder Bay
D. W. Turner	– Vice Local Chairman, Thunder Bay

AWARD OF THE ARBITRATOR

On November 24, 1978, the parties entered into an agreement relating to a method of determining the most efficient and economical method of operating unit trains between Atikokan and McKellar Island. In particular,

provision was made for a trial period, during part of which such trains would be handled in part by yard crews, and during part of which they would be handled by road crews throughout. The agreement set out certain conditions for the trial period, and for its subsequent evaluation.

The trial period was held, statistics as to the operations were kept and analyzed, and the Company concluded that the most efficient and economical method of operation was that involving the use of road crews for the whole trip. The Union disputes that conclusion.

What is in issue before me, of course, are the three claims made by the Union in the ex parte statement. The question to be determined is whether or not the Company is in violation of the collective agreement in those respects. I shall deal with the three matters in turn.

The first matter is the Union's contention that the time used by road crews for eating was deducted in the calculation of total time on duty, and that this was improper. While the agreement of November 24, 1978 does not explicitly deal with this point it is clear that the purpose of the trial period was to permit an objective comparison of the two methods of operation, and that such comparison can only be made if the same items are included or excluded on either side of the ledger. In fact, the Company's analysis, set out in Section VI of its Report, shows the time and cost for the "single" and" combined" operations both including and excluding the "eating delay". When the eating delay is included (and in my view that would make for a more realistic comparison) the difference in elapsed time as between the two methods of operation is reduced, but it remains in favour of the "single" (road crew only) method of operation. The Union's complaint, in any event, is not well-founded, because although it is true that a figure is given reflecting the deduction of eating time, it is also true that a figure is given showing its inclusion. The Company did not violate the intent of the agreement in this regard.

The second matter is the Union's objection to the comparison of wage costs as between road crews and yard crews in the trial period. The Union's contention is that the determination of "the most efficient and economical method" of operation was not intended simply to be a comparison of wage costs. That is quite so: both "efficiency" and "economy" are criteria by which the methods are to be judged. While efficiency and economy are in some contexts related, they are not the same. In this case, other considerations than wage savings were to be weighed. While the Union is correct to this extent, there are two answers to its allegation that the Company was in violation of' the agreement. One is that while the agreement contemplates that "economy" will not be the sole criterion, it certainly does not contemplate that it will not be a criterion at all. On the contrary, "economy" is expressly set out as one of the factors to be determined, and in assessing the relative economy of the two methods of operation, the wage costs are quite properly to be considered. In this regard, while the Union led evidence to the effect that it had been said, at the negotiations leading to the agreement, that the trial period was not for the purpose of wage cost comparison, there was no direct evidence of any explicit undertaking about that. Any such restriction in a test intended to evaluate the methods of operation on a general basis would be surprising indeed, and any limitation of that sort would have to be clearly set out. The other answer to this contention is that the wage cost comparison is not the only comparison made. The average times involved in the two methods are also analyzed and prominently set out.

The third matter is the Union's claim that the Report showed no breakdown of the work performed by Yard Crews prior to arrival at Mile 9. Such a breakdown was provided when the Union raised the issue, although it is not set out in the Report. That is, it was made clear that time spent by yard crews away from their regular assignment was changed to the unit train operation. A breakdown of other work performed by them, that is work on their regular assignments and not attributable to the unit train operation, would not be relevant to the comparison being made here. The time charged to the unit train operation in respect of yard crews was "unproductive time" lost to their regular work by reason of the requirements of the unit train operation. In my view, it was properly chargeable to that operation for the purpose of the trial period. Finally, it may be noted that even allowing (in respect of both methods of operation) for a number of adjustments suggested by the Union, the relative efficiency in terms of elapsed time is not significantly altered.

For the foregoing reasons it must be concluded that the alleged violations of the agreement of November 24, 1978 have not been established. Accordingly, the grievance must be dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR