# CANADIAN RAILWAY OFFICE OF ARBITRATION

# CASE NO. 799

Heard at Montreal, Wednesday, December 10, 1980

Concerning

## QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

## UNITED TRANSPORTATION UNION (T)

**DISPUTE:**

Interpretation and application of Letter #53 entitled "Agreement concerning Homesteader's 1973 Run-Through Allowance".

**JOINT STATEMENT OF ISSUE:**

The "Agreement" in question refers to yard crews not manning "ore and through freight trains to Ross Bay Junction, whose consist make up requires no switching en route".

The Union alleges that the locomotives on any train are part of the consist and that yard crews employed at Labrador City should be called to man a train when a locomotive is set-off en route.

The Railway maintains that since 1973, the operation of ore and through freight trains to Ross Bay Junction has not changed. Reducing the number of locomotives used to assist trains over the controlling grade between Sept-Îles and Ross Bay Junction was neither in dispute nor discussed in 1973 or at subsequent negotiations. The purpose of the Run-Through was and is to avoid the inefficient use of equipment and manpower occasioned by the Ross Bay Junction interchange.

The Union filed a grievance which was rejected by the Railway.

| FOR THE EMPLOYEES: | FOR THE COMPANY: |
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| (SGD.) L. LAVOIE | (SGD.) R. L. BEAULIEU |
| GENERAL CHAIRMAN | MANAGER-LABOUR RELATIONS |

There appeared on behalf of the Company:

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| J. Bazin | – Counsel, Montreal |
| R. P. Morris | – Superintendent, Train Movement, Sept-Îles |
| C. Nobert | – Labour Relations Assistant, Sept-Îles |
| M. Tardif | – Labour Relations Assistant, Sept-Îles |
| J. J. Sirois | – Trainmaster, Sept-Îles |

And on behalf of the Brotherhood:

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| L. Lavoie | – General Chairman, Sept-Îles |
| D. McLean | – Local Chairman, Labrador City |

## AWARD OF THE ARBITRATOR

What is involved in this case is the operation of through freight trains from Sept-Îles to Carol Lake. The Union contends that switching is done at Ross Bay Junction, and that such should be done by Carol Lake crews, who should "pick up the freight at Ross Bay Junction".

From the material before me, the "switching" involved is simply the set-off of locomotives not needed beyond Ross Bay Junction. While reference appears in the correspondence to an instance where a through freight crew were directed to pick up cars at various points en route, representations were not directed to that sort of situation at the hearing, and I do not decide any other question than that arising from the setting-off of unneeded locomotives at Ross Bay Junction.

The Union contends that the practice referred to is a violation of Letter of Understanding No. 53. There was reference to an award made some years ago by Senator Goldenberg, but the parties acknowledge that it is only to the extent that they have been incorporated in Letter of Understanding No. 53 that the provisions of the award have effect with respect to the situation in issue here.

Letter of Understanding No. 53 is headed "Agreement Concerning Homesteader's 1973 Run-Through Allowance". The "homesteaders", it seems, are those employees (and they are listed in an Appendix to the collective agreement) who had formerly been employed by the Iron Ore Company and had, prior to the acquisition of running rights by the present employer and the inauguration of run-through service, picked up trains at Ross Bay Junction. The Letter of Understanding provides for a special allowance to be paid to the individual employees listed in the Appendix. The purpose of the allowance is stated to be the compensation of those persons for earnings lost as a direct result of the run-through arrangement.

Letter of Understanding No. 53 does not expressly confer on "Carol Lake" or other employees a right to handle trains. Such rights would no doubt appear from other, more general provisions of the collective agreement. It rather sets out an agreement that yard service crews employed at Labrador City "will not man ore and through freight trains to Ross Bay Junction whose consist make-up requires no switching en route". That at least implies that were it not for that agreement, such crews would have a right to man such trains. To that extent, reference is made to employees generally and not just those entitled to the allowance for which the agreement specifically provides.

The particular question to be determined is whether the setting-off of excess power units at Ross Bay Junction means that the trains involved are no longer "through freight trains" within the meaning of Letter of Understanding No. 53. The award of Senator Goldenberg was, in part, addressed to the matter of the nature of the trains involved although it does not appear to have dealt with the particular question which has now arisen. The term "through freight trains" was "defined" in the award, so that the phrase which had appeared in a previous agreement, "ore and through freight trains to Ross Bay Junction", was changed to read "ore and through freight trains to Ross Bay Junction whose consist make up requires no switching en route". That is the phrase which appears in the present agreement, and it describes those trains which are not to be manned by yard service train crews at Labrador City.

With respect, what is set out in Senator Goldenberg's award, and now appears in the general provisions of Letter of Understanding No. 53 is not really a definition of the term "through freight trains" but a qualification thereof. This was, of course, responsive to the arguments and concerns of the parties put before the Arbitrator at that time. In this connection, reference may be made to the definition of "run-through train" set out by the Association of American Railroads in its Rules of Order, Principles and Practices. Such a definition, while not binding on this case, is of interest: a run-through train (and a through freight train is, in my view, to be considered a run-through train), is one "Consisting of a solid block of cars handled through a junction point, under an operating agreement, without a scheduled stop other than for any necessary change in power or crew". What is of concern here, of course, is whether or not a change of power, as by the setting-off of unnecessary locomotives, transforms what would otherwise be a through freight train into one which is not.

In my view, the particular qualification set out in Letter of Understanding No. 53, that the "Consist make-up" of a through freight train require no switching en route is to be read having regard to the evident purpose of the qualification, namely to ensure that the train's character as a "through freight" be respected, and that the setting-off or picking-up of freight en route not be permitted – or if performed, be performed by appropriate crews. Such a view is consistent with what is set out in those passages of Senator Goldenberg's award which are before me, and which explain the concerns of the parties as the time as to the nature of the trains and their loads. While in one sense a train

"consist" means the total complement of cars and engines at any given moment, it is my view that the phrase "consist make-up" as it appears in Letter of Understanding No. 53 is used to ensure the integrity of the "ore" or "through freight" nature of the operation and does not require the operation of unnecessary power or inhibit its being set off en route. It does not require an unalterable power consist.

For the foregoing reasons, I conclude that there is no violation of Letter of Understanding No. 53 where excess power is set off at Ross Bay Junction. Accordingly, the grievance is dismissed.

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