

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 805

Heard at Montreal, Tuesday, January 13, 1981

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

CANADIAN BROTHERHOOD OF RAILWAY, TRANSPORT AND GENERAL WORKERS

DISPUTE:

Claim by the Brotherhood that the position of "Operator" formerly held by Mr. W.J. Dryden at Calder Yard Alberta be placed within the scope of Agreement 5.1.

JOINT STATEMENT OF ISSUE:

The position of "Operator" formerly held by Mr. W.J. Dryden in the Chief Dispatchers Office at Edmonton, Alberta is administered under Collective Agreement 7.2.

The Brotherhood claims that the position in question performs clerical work only and falls within the scope rule, Article 10.5 of Agreement 5.1.

The Company has denied the claim.

FOR THE EMPLOYEES:

(SGD.) J. D. HUNTER
NATIONAL VICE PRESIDENT

FOR THE COMPANY:

(SGD.) S. T. COOKE
VICE-PRESIDENT-LABOUR RELATIONS

There appeared on behalf of the Company:

J. A. Fellows – System Labour Relations Officer, Montreal
R. A. Groome – Labour Relations Assistant, Montreal
R. J. Gemmell – Employee Relations Officer, Montreal

And on behalf of the Brotherhood:

W. Apps – Regional Vice-President, Vancouver
H. Critchley – Representative, Edmonton

AWARD OF THE ARBITRATOR

As in **Case No. 804**, the issue is whether or not the job in question comes within the scope of the exception set out in Appendix I to the Collective Agreement. If the job of Operator at Calder Yard involves “exercising train order skills” or “handling telegraph message traffic”, then it comes within the exceptions and is excluded from the bargaining unit. It may be noted that the Company has treated the job as coming within the scope of another Collective Agreement. It may further be noted that the **Canada Labour Relations Board** has included the job in question in a certification issued to another trade union.

While I doubt that the job of Operator should be said to be one involving “handling telegraph message traffic” within the meaning of Appendix I (and what is said in this respect in Case No. 804 applies equally here), I do consider that the job involves “exercising train order skills”. In this respect, this case is different from **Case No. 413**, where it was held that since a “Ticket Agent-Operator” did not exercise train order skills nor handle telegraph message traffic, the position was not excluded and being of a generally clerical nature came within the bargaining unit.

In the instant case, however, the Operator does, in my view, “exercise train order skills”. That is, while much of his work is of a purely clerical nature, some of it requires the ability to read train graphs and train sheets. These are, I think, “train order skills”. It appears that it is a requirement of the position of Operator that the incumbent be qualified to relieve Train Order Operators and Hot Box Detector Operators. While the possession of that qualification is not in itself the “exercise” of train order skills, the requirement itself shows the relationship between this job and those calling for the regular exercise of such skills. While the Operator performs many tasks other than those calling for the exercise of train order skills, I am satisfied that he must exercise such skills as a significant function of his job, which is, therefore, one coming within the exclusions set out in Appendix I to the Collective Agreement.

For the foregoing reasons, the grievance must be dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR