

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 876

Heard at Montreal, Thursday, October 15, 1981

Concerning

CANADIAN NATIONAL RAILWAYS

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Claim for 52 miles of Locomotive Engineer G. Klips of Winnipeg.

JOINT STATEMENT OF ISSUE:

On July 2, 1980, Locomotive Engineer G. Klips was called for 2100 hours in work train service. His assignment consisted of delivering 25 loaded cars of OCS ballast from Winnipeg to Portage La Prairie, and after making up a train of 17 empty ballast cars, the assignment returned with the 17 empty cars to Winnipeg.

For this tour of duty, Locomotive Engineer Klips claimed 225 miles at through freight rates and conditions. The Company allowed payment of 173 miles at work train rates and conditions.

The employee subsequently submitted a grievance for payment of 52 miles at through freight rates of pay, being the difference between the miles claimed and the miles paid. Payment was declined by the Company and the Brotherhood contends that in refusing to make payment, as claimed, Paragraph 9.3, Article 9 of Agreement 1.2 was violated by the Company.

Similar claims were submitted by Locomotive Engineers R. G. Lussier (June 23), T. W. Hotson (July 4), M. Hnutishin (July 11 and 15) and J. S. Hastings (July 18), and similarly declined by the Company.

FOR THE EMPLOYEES:

(SGD.) A. J. BALL
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) G. E. MORGAN
DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

J. A. Fellows – Manager Labour Relations, Montreal
P. L. Ross – Coordinator Transportation – Special Projects, Montreal
T. H. Randles – Trainmaster, Winnipeg

And on behalf of the Brotherhood:

A. J. Ball – General Chairman, Regina

AWARD OF THE ARBITRATOR

Article 9.3 of the Collective Agreement is as follows:

9.3 Except as provided in paragraphs 9.1 and 9.2, short runs will be paid on the basis of 100 miles one way and miles and terminal switching the other way, except in cases where overtime is made in either direction, when such overtime will be paid.

It is acknowledged that had the grievor been in freight service, Article 9.3 would appear to apply to the grievor's run on the day in question. Article 9.8, however, is as follows:

9.8 The article does not apply to locomotive engineers in road switcher or work train service.

In the instant case, although the grievor was called for work train service, the Union contends that he actually worked in freight service, and that Article 9 should therefore apply. It is the Company's position that the grievor in fact was in work train service.

The work site being served was on the Gladstone Subdivision, a few hundred feet, more or less, west of the westerly switch of Portage La Prairie. A regularly-assigned work train picked up cars of material as required at Portage La Prairie, moved them to the Gladstone Subdivision, and returned them empty to Portage La Prairie. Other work trains, ordered on a day-to-day basis, moved cars of material and equipment from Winnipeg to Portage La Prairie, returning to Winnipeg with empty cars. The grievor's train was of the latter sort. His run was from Symington (Winnipeg) to Portage La Prairie and return to Symington. At Portage La Prairie the grievor and train crew assembled 17 empty ballast cars for the return to Winnipeg. They had come with a train of 25 OCS ballast cars.

"Work train service" is defined in Article 6A of the Collective Agreement as follows:

6A DEFINITION OF WORK TRAIN SERVICE

6A.1 A train ordered or advertised for the sole purpose of switching, loading or unloading material for the maintenance improvement, construction or reclamation of Company property, and wreck clearing operations. This will include a train exclusively engaged in handling Company material, empty equipment, boarding and/or outfit cars, road repair cars, or auxiliaries directly to or from loading sites or work sites.

6A.2 A train, other than one described in paragraph 6A.1 whose sole purpose on a tour of duty basis is hauling Company material, empty equipment, boarding and/or outfit cars, or auxiliaries from one terminal to another will not be considered work train service.

Although the grievor's train was not ordered for the sole purpose of "switching, loading or unloading material", it was exclusively engaged in handling material directly to or from a loading site or work site. The area of Portage La Prairie was, it seems, the closest point to the actual work site where cars could be left. The grievor's train was thus a "work train" within the meaning of Article 6A.1. It did not come within the definition set out in Article 6A.2, both because it was not a train "other than one described in paragraph 6A.1" (although that clause may be merely descriptive), and because it did not haul material "from one terminal to another", Portage La Prairie not being a terminal, and the return trip to Winnipeg not being a trip from "one terminal to another".

For the foregoing reasons, it must be my conclusion that the train in question was in "work train service" within the meaning of Article 6A. Accordingly, by Article 9.8, Article 9.3 does not apply, and the grievance must therefore be dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR