

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 885

Heard at Montreal, Tuesday, November 10, 1981

Concerning

CANADIAN NATIONAL RAILWAYS

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Claim of Locomotive Engineer G.B. McKay of Winnipeg, Manitoba for 50 miles run-around January 10, 1981.

JOINT STATEMENT OF ISSUE:

On January 10, 1981, Locomotive Engineer G.B. McKay who was assigned to pool service between Winnipeg and Rivers, was called in proper turn to operate Train No. 404, Rivers to Winnipeg, which was ordered for 0210 hours. Subsequently, Train No. 404 was ordered for 0210 hours. Subsequently, Train No. 404 was cancelled and Locomotive Engineer was instructed to take Train No. 302, Rivers to Winnipeg, which was also ordered for 0210 hours.

Due to air brake difficulties, necessitating the reduction of 17 cars from Train No. 302, Locomotive Engineer Radcliffe on Train No. 784 which arrived at 0540 hours, left Rivers at 0550 hours ahead of Train No. 302, which departed at 0655 hours.

Locomotive Engineer McKay submitted a time return for 50 miles claiming that he was avoidably run-around by Locomotive Engineer Radcliffe at Rivers January 10, 1981.

The Company declined payment, and the Brotherhood contends that in so doing, the provisions of Paragraphs 32.1 and 32.2, Article 32 of Agreement 1.2 were violated by the Company.

FOR THE EMPLOYEES:

(SGD.) A. J. BALL
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) C. 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
B. Rupert – Manager of Rules, Montreal

And on behalf of the Brotherhood:

A. J. Ball – General Chairman, Regina

AWARD OF THE ARBITRATOR

The grievor was properly called for Train No. 404. When that train was cancelled, he was then assigned to Train No. 302, which had the same destination and which was ordered for the same time. There seems to be no doubt that the assignment to Train No. 302 was proper.

Train No. 302 arrived at the designated change-off point, Track No. 1 at Rivers, at 0315, and the grievor there took charge of the diesel units and thereafter performed work of a usual sort, pulling the train to the east end of the yard and making an air test. As a result of that, cars had to be set off, and the train, for whatever reason, was moved back to Track No. 1. There was, thus, substantial delay, and there was further delay as the grievor decided (no doubt properly) to switch the lead engine. The result was that Train No. 302 departed Rivers at 0655.

Train No. 748 arrived at Rivers at 0540, and departed for Winnipeg at 0550. The engineman called to take over the train at Rivers stood after the grievor in calling order. Of course that engineman was called after the grievor, but because of the delays to Train No. 302, he in fact left the terminal at Rivers, and thus arrived in Winnipeg, before the grievor, whereas in the normal course the grievor would not only have been called first (as he was) but would have left Rivers first and (barring other delays) would have arrived in Winnipeg first.

The question is whether or not the grievor was avoidably run-around in the circumstances described. The matter is governed by Article 32.1 of the Collective Agreement, which is as follows:

32.1 Locomotive engineers in pool service will be run first-in, first-out from the shop track or change-off point on their respective subdivision or subdivisions, except as hereinafter provided.

The grievor was, under this Article, entitled to be “run” ahead of the other engineman, who was after him on the call list. This does not mean that he was entitled to complete his “run” from Rivers to Winnipeg ahead of anyone else. The use of the verb “run” in Article 32 should not be confused with the use of the noun “run” which has a different significance. The effect of the term used in Article 32.1 is clear when the whole expression is read: the employee at the top of the call list is to be “run (in order) from the shop track or change-off point”. It is immaterial, in this case, whether the grievor picked up his engines on the shop track or change-off point. In fact, he picked up his train at the change-off point, and began the work which was necessary (it turned out to be more than anticipated) in connection with his run. He had, then, been called in turn, and was in fact “run first-in, first-out from the change-off point”. The Collective Agreement does not provide any greater priority than that, and the grievor was not “run-around” in these circumstances, any more than he would have been had his train broken down en route to be passed by one which had been called later. While it might, in this particular case, have been possible to take the grievor off his train and have him change places with the other engineman, there are no doubt many other situations where such an exchange would not be practical. What is conclusive, of course, is that the Collective Agreement does not require such exchanges. The grievor was run in his turn from the change-off point. That met the requirements of the Collective Agreement, and that fact was not altered by subsequent events.

For the foregoing reasons the grievance is dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR