

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 886

Heard at Montreal, Tuesday, November 10, 1981

Concerning

CANADIAN NATIONAL RAILWAYS

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Claims of Locomotive Engineer C. Christoff, Toronto dated December 31, 1978 and January 1, 1979 in the amount of 100 miles at Passenger rates of pay.

JOINT STATEMENT OF ISSUE:

Locomotive Engineer C. Christoff home-terminalled Toronto was regularly assigned to passenger Trains Nos. 1 and 2 between Toronto and South Parry. Upon going off duty at 0635 hours December 31, 1978, i.e., on completion of his assignment on Train No. 2 from South Parry; Locomotive Engineer C. Christoff booked eight hours rest which expired at 1435 hours. He was therefore not available for a call at 1325 hours, two hours prior to his on duty time of 1525 hours for next assignment on Train No. 1 Toronto to South Parry December 31, 1978.

Locomotive Engineer C. Christoff did not report for duty for his assignment on Train No. 1. He submitted claims dated December 31, 1978 and January 1, 1979, each in the amount of 100 miles at passenger rates, under Articles 68.1 and 81.2 of Agreement 1.1.

The Company declined the claims.

FOR THE EMPLOYEES:

(SGD.) P. M. MANDZIAK
GENERAL CHAIRMAN

FOR THE COMPANY:

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

There appeared on behalf of the Company:

R. Birch	– Manager, Labour Relations, Montreal
M. Delgreco	– Regional Labour Relations Officer, Toronto
P. L. Ross	– Coordinator Transportation - Special Projects, Montreal
D. D. Davidson	- Assistant Superintendent, London

And on behalf of the Brotherhood:

P. M. Mandziak	– General Chairman, Toronto
C. R. Downey	– First Vice-General Chairman, Toronto.

AWARD OF THE ARBITRATOR

Article 68.1 of the Collective Agreement is as follows:

68.1 Locomotive engineers will have the right, upon going off duty, to take between 8 and 24 hours' rest at the home terminal.

On the day in question, on his arrival at his home terminal on completion of his return assignment, the grievor booked eight hours' rest. He was entitled to do that, and he was allowed to do that.

He was, as the joint statement specifies, not available for a call at 1325 hours, which would have been a two-hour call for his regular assignment. The material before me does not permit any specific finding of fact as to whether or not the grievor requested that he be called during his rest period. The duty time for the grievor's next regular assignment was 1525, some fifty-five minutes after the expiry of his rest. The fact of the grievor's not being called does not suggest any violation of Article 68.1.

Article 81.2 of the Collective Agreement is as follows:

81.2 Locomotive engineers in regularly assigned service, arriving at the home terminal too late to be released from duty prior to the time required to report for duty for their regular assignment out of such terminal, will be held for their next assignment but may be used in other service in the interval if the performance of such service will not interfere with them following their regular assignment and is not in conflict with schedule rules. Locomotive engineers so held will be allowed not less than the daily guarantee for passenger service for each round trip lost on their regular assignments.

This Article simply does not apply in the circumstances of this case. The grievor did not arrive at his home terminal "too late to be released for duty prior to the time required to report for duty" for his next regular assignment. The grievor was entitled to book rest, and did so. He could then have reported for duty for his assignment and it would appear (subject to any other provisions of the Collective Agreement), that he would have been entitled to take out his regular assignment. He did not report for duty, and I was not referred to any provision of the Collective Agreement which would entitle the grievor to payment in that case. I was not referred, for instance, to any provision that would require the Company to give the grievor a two-hour call, and it will be noted, again, that the Joint Statement stipulates that the grievor was not available for a call.

There has not, therefore, been shown to have been any violation of the Collective Agreement, and the grievance must therefore be dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR