

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 888

Heard at Montreal, Tuesday, November 10, 1981

Concerning

### CANADIAN NATIONAL RAILWAYS

and

### BROTHERHOOD OF LOCOMOTIVE ENGINEERS

#### **DISPUTE:**

Claims of Locomotive Engineer W.M. Copp for being run-around on November 16 and 17, 1979.

#### **JOINT STATEMENT OF ISSUE:**

On November 16 and 17, 1979, Canadian Pacific Railway Company detoured certain trains between Toronto and London on Canadian National trackage. CN Toronto Locomotive Engineers were used as Pilots for the CP trains to London. These CN Locomotive Engineers were also used as Pilots for the CP trains London to Toronto.

Locomotive Engineer W.M. Copp of London submitted a time claim on November 16, 1979 claiming 50 miles run-around contending that he should have been called to pilot the CP trains London to Toronto instead of the Toronto Locomotive Engineer.

The Brotherhood alleges that, in declining payment, the Company has violated the letter appearing on pages 404-505 of Agreement 1.1.

The Company has declined payment on the basis that the letter on pages 404-405 of Agreement 1.1 does not apply to piloting of trains.

#### **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

The letter on which the Union relies is as follows:

Canadian National Railways  
Toronto, Ont.  
April 24, 1943

Mr. J. E. Sutherland,  
General Chairman, UTU(T)  
Box 254, Joliette, P.Q.

Mr. Thomas Mattingley,  
General Chairman, UTU(E)  
196 Stuart Street, Sarnia, Ont.

Mr. W.T. Parr,  
General Chairman, UTU(T)  
61 Lawton Blvd.,  
Toronto, Ont.

Mr. A. M. Brisbin,  
General Chairman, B. of L.E.  
34 Cambridge St., N.  
Lindsay, Ont.

Dear Sirs:

Referring to your letter of March 22nd in connection with train and engine crews operating in unassigned service between London and Toronto.

Instructions are being issued as follows:

Every reasonable effort will be made to protect trains leaving Toronto for London with London crews, and only in emergency will Toronto crews be used. If, in practice, you consider that Toronto crews are being used unnecessarily, the matter can be brought to the attention of the Railway Officers, and if necessary, corrective action taken.

When Toronto crews are used Toronto to London, they will be returned deadhead, or light out of London, except when by so doing light running in both directions will be involved.

The present practice of returning Toronto crews in passenger service from London (such Toronto crews having arrived London in extra passenger service) may continue, also Toronto-Sarnia trains may be filled out at Toronto with London cars for set off at the latter point.

All extra passenger service out of Toronto for London to be handled by Toronto crews, except where crew from London is available on account of having arrived in Toronto in extra passenger service, where there are surplus London crews at Toronto who will not be required in freight service, and who would otherwise be deadheaded home.

I shall be glad to have your acknowledgment that the above meets with your wishes.

Yours truly,

(sgd.) G. A. Stokes  
General Superintendent

This letter applies with respect to "train and engine crews operating in unassigned service between London and Toronto". While there is a certain analogy between such cases and others relating to unassigned work, the analogy is not precise, and the situation dealt with in the letter is not the same as that which arises here, where the Company was asked to supply pilots to assist in the operation of another line's equipment over the Company's trackage.

Further, it would appear that the commitment given in the letter is conditional on an avoidance of deadheading. Thus, in the sixth paragraph, it is contemplated that while extra passenger service out of Toronto to London would be handled by Toronto crews, there is an exception to that where a London crew is available at Toronto, having arrived there in extra passenger service and where (among other conditions) they would otherwise be deadheaded home. In

that instance (reversing the points named), there is indeed a close analogy with the instant case, suggesting that the use of the Toronto pilot for the return trip was not improper.

Finally, it must be noted that the letter does not create any obligation of payment to enginemen who might be considered to be “run-around” in these circumstances. There are specific provisions in the Collective Agreement to that effect in respect of these situations for which the parties have negotiated such payments.

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

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