

# **CANADIAN RAILWAY OFFICE OF ARBITRATION**

## **CASE NO. 894**

Heard at Montreal, Tuesday, December 8, 1981

Concerning

### **CANADIAN PACIFIC EXPRESS LIMITED**

and

### **BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES**

#### **EX PARTE**

##### **DISPUTE:**

This concerns claims for ten minutes at the work time rate of pay in the names of mileage rated vehiclemen for the time required to lock and unlock the chainlink gates into and out of the CP Express Company property at Calgary, Alberta.

##### **BROTHERHOOD STATEMENT OF ISSUE:**

Mileage rated vehiclemen K. Greasley and B. V. MacFarlane, Calgary, Alberta, have been instructed that each time they enter or leave the Company property which the Company had fenced in for protective purposes are required as part of their duties to lock and unlock the chainlink gates.

The Brotherhood contends that such specific work time is due to the Company's decision to erect this chainlink fence and gates and that it was the Company Officers who issued instructions that the gates must be locked, the employees as instructed are performing these extra specific duties and should be paid for all such time. The Brotherhood seek ten minutes at the work time rate of pay due to these specific extra duties being other than the main task of driving and which time is on duty time and is in addition to preparatory and termination duties.

The Company suggests that such time is outlined in Articles 33.1 and 33.2 and for this reason have declined the Brotherhood's request for ten minutes pay.

##### **FOR THE BROTHERHOOD:**

**(SGD.) J. J. BOYCE**

GENERAL CHAIRMAN

There appeared on behalf of the Company:

D. R. Smith	– Director, Industrial Relations, Willowdale
B. Neill	– Manager, Labour Relations, Willowdale
R. A. Colquhoun	– Labour Relations Officer, CP Rail, Montreal

And on behalf of the Brotherhood:

J. J. Boyce	– General Chairman, Toronto
G. Moore	– Vice-General Chairman, Moose Jaw

## **AWARD OF THE ARBITRATOR**

As a result of the erection of a fence and gates at the Company's property in Calgary employees, including the grievors, are now from time to time (that is, when the gates are locked, and other employees are not assigned to open them), required to unlock and then relock the gates when going out on or coming in from a trip.

In my view, the performance of this task, when required, constitutes "work" and the time involved constitutes "work time" within the meaning of Article 33.4. It is therefore to be paid for, and as Article 33.4 contemplates, such "work" is paid for on "the actual minute basis". Even a minute's "work" is to be paid for, and it cannot be argued that the triviality of the task, or the slight amount of time required, is of any relevance.

The performance of this task, which has not previously been required of employees in the bargaining unit, and is not required at other locations, is not, I think, to be considered as included in the "normal duties" of inspection and servicing, and picking up orders and bills, which are part of every driver's work, and considered as paid for by the mileage rate. Neither, I think, are they included in the analogous tasks performed on arrival at a destination, as described in Article 33.2.

Accordingly, it is my conclusion that the grievance must be allowed. It is to be noted, however, that payment is to be on the "actual minute" basis, and that the ten minutes claimed in this grievance may not be proper in all cases. I would note as well that this decision relates only to time at "work", and does not apply to time spent getting to work, as when an employee may have to unlock the gate in order to drive his own private car onto the premises.

For the foregoing reasons, this grievance is allowed.

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