

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 906

Heard at Montreal, Tuesday, February 9, 1982

Concerning

QUEBEC NORTH SHORE & LABRADOR RAILWAY

and

UNITED TRANSPORTATION UNION

DISPUTE:

Interpretation and application of paragraphs 5.01, 25.01 and 25.02 of the Collective Agreement.

JOINT STATEMENT OF ISSUE:

Train crews are frequently called at Silver in ore service for Talzie, leaving Silver Yard with 150 cars of ore. Instructions are issued to set-off these 150 cars at Astray and proceed to Redore Yard to pick-up 90 cars of ore to fill out their train. At Astray, the train is marshalled by picking up the 150 cars of ore before moving to Talzie.

Accordingly, payment is made at Astray as per paragraph 25.02, set-out and pick-up. Actual miles are paid to and from Redore Junction, as per paragraph 5.01 and all time at Redore is paid in accordance with 25.01.

The Union claims paragraphs 25.01 and 25.02 do not apply and payment should be made for actual hours or miles run whichever is greater computed from first arrival at Astray until departure for Talzie, according to paragraph 5.01, in addition to the run from Silver to Talzie.

The Union filed a grievance which was rejected by the Railway.

FOR THE UNION:

(SGD.) JACQUES ROY
GENERAL CHAIRMAN

FOR THE RAILWAY:

(SGD.) ROGER L. BEAULIEU
MANAGER, LABOUR RELATIONS

There appeared on behalf of the Company:

Me. Jean Bazin	– Attorney, Montreal
R. P. Morris	– Superintendent Transportation, Sept Îles
R. Copp	– Chief Clerk Transportation, Sept Îles
C. Nobert	– Labour Relations Assistant, Sept Îles

And on behalf of the Union:

J. Roy	– General Chairman, Sept Îles
J. Sandie	– Vice-President, Sault Ste. Marie
T. J. Proulx	– General Chairman, Montreal

AWARD OF THE ARBITRATOR

The run from Silver (Knob Lake Junction) to Talzie is 97 miles long and trains making this run stop at Astray where cars are set off or picked up. This type of work is paid at the rate described in Article 25 of the Collective Agreement. In addition, trains that have already passed through Redore Junction on the Silver-Astray line, return to Redore Junction to deliver or pick up cars at the Redore Yard. Employees performing this work are paid in

accordance with Article 25, since it entails setting off or picking-up cars or operating switches at branch lines, as defined in Article 25.01. The train then returns to Astray and continues as far as Talzie.

It is clear that apart from work done either in the terminals, or at Astray or at Redore and paid by the minute, the train did not simply run the distance from Silver to Talzie but rather a greater distance because of the doubling between Redore and Astray. When, during the course of a run from one point to another, a train doubles back to a point it has already passed and then later continues on the same route to its final destination, "doubling" takes place. The actual miles run in this manner should therefore be "allowed", that is, although the distance between Silver and Talzie is only 97 miles, the distance of the return trip between Astray and Redore should be added to the total for the purpose of payment. Since the distance between Redore and Astray is 5.8 miles, 11.6 miles should be added to the distance between Silver and Talzie to give a final total for payment.

Article V of the Collective Agreement reads as follows:

ARTICLE V – DOUBLING – PLOWING SIDINGS AND YARD TRACKS

5.01 Actual miles run will be allowed for doubling, assisting other trains and for plowing or flanging sidings and yard tracks. If necessary to double a train or section of train, assist other trains or set off disabled equipment, such handling will be considered as doubling and will be paid actual hours or miles run whichever is the greater.

5.02 Engines pushing wing snow plow, except in emergencies, will not have a train attached other than spreader, water car, van, official car or cars necessary for the trip.

Paragraph 5.01 of this Article (Article 5 of the Agreement) contains two sentences. The first gives the general rule for doubling, and therefore the actual miles run, 11.6 in the case before us, should be allowed. It should be pointed out that this first sentence refers to three types of cases where the actual miles run are allowed: doubling, assisting other trains and plowing or flanging sidings and yard tracks. In the present case, we are only concerned with doubling.

The second sentence of paragraph 5.01 deals with one, or rather two particular cases where doubling occurs either in the case of a train or section of train: (a) to assist other trains, or (b) to set off disabled equipment. These last two cases of doubling differ from the general rule given in the first sentence of paragraph 5.01 in that either the actual miles run or the actual number of hours are taken into account for the purpose of payment, whichever situation is more advantageous.

At first glance, one could suppose that because of the comma after the expression "a train or section of train" in this second sentence, there would be a list of situations from which one could choose the most advantageous with respect to payment. According to this interpretation, the list would include three situations: (a) when necessary to carry out doubling for a train or section of train, (b) when necessary to carry out doubling to assist other trains, or (c) when necessary to carry out doubling to set off disabled equipment.

We must conclude that this interpretation of the sentence is incorrect. Although the first sentence of the paragraph applies to the situation before us, the second sentence, which is more particular, does not apply since it does not deal with the three situations, including doubling (already dealt with in the first sentence) but rather with just two situations, each of which is a particular case of doubling that is, either for "assisting other trains" or for setting off "disabled equipment". This means that the two commas in the sentence are used to denote the two particular cases of doubling for which payment can be based on the number of hours, rather than miles.

In the case before us, the doubling that took place between Astray and Redore was neither "to assist other trains" nor "to set off disabled equipment". Therefore, only the first sentence of paragraph 5.01 applies, and not the second, and only miles run for doubling will be allowed. Article 25 applies to work performed at Astray and Redore. The Company appears to have correctly applied the terms of the Agreement in this case.

For all the above reasons, the grievance is dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR