

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 933

Heard at Montreal, Wednesday, April 14, 1982

Concerning

CANADIAN NATIONAL RAILWAYS

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Claim of Locomotive Engineer P. Seagris of Thunder Bay, Ontario, for additional eight hours pay December 3, 1980.

JOINT STATEMENT OF ISSUE:

Regular wayfreight assignment handling train 511 from Thunder to Graham on December 3, 1980 and train 510 back to Thunder Bay on December 4, 1980 was worked by Locomotive Engineer P. Seagris. He reported for duty on train 511 at 0930 hours and went off duty at Graham at 2015 hours. He resumed duty on train 510 at 0400 hours and went off duty at Thunder Bay at 1230 hours.

For his tour of duty on train 511, he claimed and was paid 193 miles and for his tour of duty on train 510, he was paid 164 miles, all at wayfreight rates of pay.

In addition, Locomotive Engineer Seagris submitted a time claim for an extra eight hours for the time he was off duty at Graham on the grounds that he was tied up between terminals. The Company declined payment of this claim. The Brotherhood contends that in so doing, Paragraph 29.1 of Article 29, Agreement 1.2 was violated by the Company.

FOR THE EMPLOYEES:

(SGD.) A. JOHN BALL
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) G. 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
S. A. MacDougald – Labour Relations Assistant Operation, Winnipeg

And on behalf of the Brotherhood:

A. J. Ball – General Chairman, Regina

AWARD OF THE ARBITRATOR

Article 29 of the Collective Agreement is headed "Tied Up Between Terminals". Article 29.1 is as follows:

29.1 Locomotive engineers, other than those in wreck, work, construction, snow plow and flanger service, may be tied up at any point between the initial terminal and the point for which called and the tie-up point shall be recognized as the final terminal. Locomotive engineers so tied up shall be paid actual miles or hours, whichever is the greater for the road portion of the trip to the tie-up point but not less than a minimum day of 100 miles for the tour of duty, and from time tied up until again resuming duty will be compensated hour for hour on the basis of one-eighth of the daily rate, as per class of service and engine involved, for the first 8 hours in each 24 hours so held. When resuming duty a new day will commence. In the application of this paragraph it is not the intention the locomotive engineer will be left without an engine.

The grievor, as a locomotive engineer not in wreck, etc., service, would be entitled to the benefit of this provision in a proper case. Graham, it is acknowledged, is not a "terminal" listed in Article 60 of the Collective Agreement. It is clear, however, from the facts set out in the Joint Statement and from the terms of Article 29.1 that the grievor was not "tied up between terminals" within the meaning of Article 29. While that phrase may appear quite broad as a general title for Article 29, there can be no doubt from the actual terms of Article 29. that the grievor, while at Graham, was not tied up at a point "between the initial terminal and the point for which called". Rather, when he was at Graham, he was at "the point for which called". He then made the return trip in the normal course of this regular assignment, which was from Thunder Bay to Graham and return.

Article 29.1 creates no entitlement to payment in these circumstances, and the grievance must accordingly be dismissed.

(sgd.) J. F. W. WEATHERILL
ARBITRATOR