

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1081

Heard at Montreal, Tuesday, May 10, 1983

Concerning

CANADIAN PACIFIC LIMITED

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Claim of Locomotive Engineer M. Hornsby for 100 miles freight service for service performed at 3M Industrial Plant, Mileage 90.7, Havelock Subdivision.

JOINT STATEMENT OF ISSUE:

Engineer Hornsby is the assigned engineer on a regular wayfreight bulletined to operate Westward between Havelock and Lindsay on a turnaround basis, Home Terminal Havelock. On July 25, 1982, the Company issued Bulletin #237, indicating that this assignment on arrival at Havelock will be required to switch the 3M Industrial Plant located East of Havelock at Mileage 90.7.

Engineer Hornsby submitted a wage claim for 100 miles for service performed at 3M, under article 3 of the collective agreement. The Company has declined payment of this on the contention that 3M Industrial Plant is within the switching limits of Havelock.

In the absence of any written agreement to extend the switching limits at Havelock beyond the outer main track switches where trains normally enter and leave the yard, the Union contends the wage claims are in order.

FOR THE BROTHERHOOD:

(SGD.) K. H. BURNETT
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) G. A. SWANSON
GENERAL MANAGER, OPERATION & MAINTENANCE

There appeared on behalf of the Company:

P. Pender	– Supervisor, Labour Relations, Toronto
B. Butterworth	– Supervisor, Labour Relations, Toronto
B. P. Scott	– Labour Relations Officer, Montreal
M. M. Yorston	– Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

K. H. Burnett	– General Chairman, Montreal
G. Wynn	– Vice-General Chairman, Montreal
J. P. Riccucci	– Special Representative, Montreal

AWARD OF THE ARBITRATOR

On the days in question, in accordance with the bulletined assignment, the grievor made turnaround trips to Peterborough and (on July 20) Lindsay, and returned to Havelock. Peterborough and Lindsay are points west of Havelock. On return to Havelock, terminal switching was performed. This included switching the 3M plant, east of Havelock. The outer main track switch east of Havelock is at Mile 93.1, and the 3M spur is to the east of that, at Mile 90.8. According to the timetable, the Havelock Yard limits are shown as extending from Mile 90.0 in the east to Mile 94.7 in the west. The issue is whether or not the switching of the 3M spur in these circumstances was properly counted as, and paid for as "final terminal time" under article 3 (d) (1) of the collective agreement.

It is the Union's contention that the outer main track switch, being the "designated point" under article 3 (e) governs, and that when the crew moved past the east outer main track switch to switch the 3M spur, they were then, in effect, on a separate trip in freight service and so entitled to a basic day on that account.

I am unable to accept this contention. The outer main track switch is of course the designated point from which road miles are counted. The passing of an outer main track switch, however, does not automatically transform a movement into a new road trip, nor does it necessarily mean that a crew moving away from a point over an outer main track switch has left the "terminal". In the instant case, while the crew had moved east of the outer main track switch, they were still within the timetable limits of Havelock Yard, when they arrived at the 3M spur. They had not, in my view, gone out on a new over-the-road trip.

In **Case No. 479** the following was said with respect to a somewhat analogous claim:

The meaning of "terminal" however, is not clearly defined in the collective agreement, at least, not for the purpose of determining the area within which initial and final terminal switching may be performed. Reference to the outer main track switch is made in article 11 (e) for the purpose of determining precise road miles in any trip. The outer main track switch, however, does not necessarily indicate the boundary of a "terminal". For the purpose of initial or final terminal switching, the yard switching limits would appear to be the appropriate limits for such work .

In my view, those comments apply in the instant case. It does not appear that in the switching which the crew performed on their return to Havelock, that is in final terminal time, they went beyond what might reasonably be considered the yard switching limits. The movement in question was, in my view, properly paid for as part of final terminal time.

For the foregoing reasons the grievance is dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR