

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1408

Heard at Montreal, Thursday, September 12, 1985

Concerning

CANADIAN PACIFIC LIMITED

and

UNITED TRANSPORTATION UNION

DISPUTE:

Applicability of article 47, Material Changes in Working Conditions to the relocation of the west yard limit sign at Medicine Hat, Alberta, from Mileage 7.8 to Mileage 2.0 Brooks Subdivision.

JOINT STATEMENT OF ISSUE:

On September 20, 1984, the Company relocated the yard limit sign at Medicine Hat from Mileage 7.8 to Mileage 2.0, Brooks Subdivision.

Prior to the change, train crews were paid final terminal delay whenever eastward trains were delayed at or inside the yard limit sign at Mileage 7.8. Subsequent to the change, crews on trains delayed between Mileage 7.8 and Mileage 2.0 were not paid.

The Union contends that because the change will reduce the entitlement of train crews to final terminal payments, it is therefore a matter falling within the provisions of article 47, Clause (a) and negotiations must be undertaken to minimize this adverse effect.

The Company contends that the effects of the change on employees at Medicine Hat are not sufficiently significant as to constitute a materially adverse effect. The Company therefore denies that article 47 applies in these circumstances.

FOR THE UNION:

(SGD.) J. H. MCLEOD
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) L. A. HILL
GENERAL MANAGER, OPERATION AND MAINTENANCE.

There appeared on behalf of the Company:

R. T. Bay – Assistant Supervisor, Labour Relations, Vancouver
B. P. Scott – Labour Relations Officer, Montreal

And on behalf of the Union:

J. H. McLeod – General Chairman, Calgary
P. P. Burke – Vice-President, Calgary
L. Schillaci – Secretary, Calgary

AWARD OF THE ARBITRATOR

Article 11(h) of the collective agreement reads as follows:

Trainmen will be paid final terminal time, including switching, on the minute basis at 12.5 miles per hour at rate of class of service performed from the time locomotive reaches outer main track

switch or designated point at final terminal; should train be delayed at or inside semaphore or yard limit board, for any reason, or behind another train similarly delayed, time shall be computed from the time train reached that point until the train is yarded.

The Company conceded in its brief that the repositioning of the "yard limit board" from Mileage 7.8 (Redcliffe) to Mileage 2.0 Medicine Hat may very well have adversely affected a train crew's entitlement to final terminal pay by reason of any delays occasioned at Redcliffe.

The issue as to whether the Company was warranted in doing what it did under the collective agreement may very well be the subject of a grievance with respect to the interpretation and application of article 11 (h) of the collective agreement. Obviously, that provision anticipates in an appropriate circumstance the payment of final terminal time occasioned by delays once a train crew has reached the limits of a terminal yard. And should the Company's action in repositioning the yard limit board compromise an employee's entitlement under the collective agreement then an Arbitrator may remedy any wrong that was allegedly committed.

Not all Company actions that may result in adverse effects on employees are intended to trigger the procedures contemplated by the material change provisions of the collective agreement. They must be "material changes". And this Arbitrator cannot conclude that an alleged change implemented by the Company that may be remedied under the provision of the current collective agreement can accurately be characterized as "a material change" even though there may have been an adverse effect to employees.

Accordingly, the Trade Union's grievance alleging a violation by the Company of article 47 (a) of the collective agreement has not been established. The grievance is accordingly denied.

(signed) DAVID H. KATES
ARBITRATOR