

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1548

Heard at Montreal, Thursday, July 10, 1986

Concerning

ALGOMA CENTRAL RAILWAY

and

UNITED TRANSPORTATION UNION

DISPUTE:

Claim of Trainmen J. Hutt, D. Snedden and G. Baxter account Trackmobile engaged in switching without a Yard Crew.

JOINT STATEMENT OF ISSUE:

On November 5, 1985, the Trackmobile was observed switching a car without the services of a Yard Foreman and Yard Helper(s). The Company made payments in keeping with past practice when resolving similar incidents.

The Organization is requesting payment for a full crew under Article 70 as originally submitted.

The Company declined the request of the Organization.

FOR THE UNION:

(SGD.) J. SANDIE
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) V. E. HUPKA
FOR: VICE-PRESIDENT - RAIL

There appeared on behalf of the Company:

V. E. Hupka – Manager, Industrial Relations, Sault Ste. Marie
N. L. Mills – Superintendent, Sault Ste. Marie

And on behalf of the Union:

J. Sandie – General Chairman, Sault Ste. Marie

AWARD OF THE ARBITRATOR

The Company has conceded its error in using a Trackmobile to move a flat car during the course of a lifting operation of heavy machinery.

The Company could have avoided liability for its error had it used a locomotive hoist. This is normally operated by yard employees. Nonetheless, I was advised that that equipment was not available to perform the moving operation.

Another alternative available to the Company was its use of a regular engine with crew who were on duty. In this respect had the Company made recourse to a regular engine crew it would not have incurred any liability.

The Company has agreed to pay Mr. Hutt at time and one half at the conductor's rate for the period of time that an appropriate crew should have worked for the period of eight hours. In that light, I am satisfied by its making this concession the Company has also admitted that an appropriate train crew should have been called in.

Accordingly I am satisfied that Mr. Baxter should have also been paid at the appropriate trainman's rate for that day as well.

Since the Trade Union conceded that Mr. Snedden was not entitled, for seniority reasons, to have been called in the grievance with respect to him was withdrawn and is accordingly denied.

In all other respects the grievance with respect to Messrs. Hutt and Baxter succeeds.

(signed) DAVID H. KATES
ARBITRATOR