

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1643

Heard at Montreal, Thursday, April 16, 1987

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

UNITED TRANSPORTATION UNION

DISPUTE:

Claim of Conductor K. Aussem and crew, Toronto, dated October 6, 1983, for payment of arbitrary allowances in the amount of two hours at the through-freight rate of pay.

JOINT STATEMENT OF ISSUE

Conductor K. Aussem and crew were assigned to chain gang freight service at Toronto. On October 6, 1983, Conductor Aussem and crew reported for and were released from duty at Mimico. Upon completion of that tour of duty, Conductor Aussem claimed, in addition to payment for that tour of duty, a one hour arbitrary allowance for travelling in each direction between MacMillan Yard and Mimico. The Company declined payment of the arbitrary allowances.

The Union has appealed the matter contending that Conductor Aussem and crew are entitled to the arbitrary allowances pursuant to Item 6 of Addendum No. 31 of agreement 4.16.

The Company has declined the Union's appeal.

FOR THE UNION:

(SGD.) R. A. BENNETT
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) M. DELGRECO
FOR: ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

D. C. St. Cyr – System Labour Relations Officer, Montreal
D.W. Coughlin – Manager Labour Relations, Montreal
J. Polley – Transportation Officer, Montreal

And on behalf of the Union:

T. G. Hodges – Vice General Chairman, Toronto

AWARD OF THE ARBITRATOR

This grievance turns on the interpretation of a Memorandum of Agreement dated August 27, 1966, now appearing as Item G to Addendum No. 31 of collective agreement 4.16. It contains, in part, the following provisions:

(c) Toronto based crews, whether assigned or unassigned, who are required to report for duty at one point in Toronto Terminal and are released from duty at another point in Toronto Terminal will be provided free transportation to the starting point.

...

(e) ... crews referred to in ... (c) above will be allowed an arbitrary of one hour for such movement, at the rate applicable to the service for which called.

It is not disputed that Conductor Aussem and crew were called for duty, reported and were released from duty at Mimico Yard, which is part of Toronto Terminal. The Union's concern is that their normal reporting location is MacMillan Yard, which is their "home terminal" where their lockers are located. It suggests that the addendum was intended to address this situation and, that the employees should be able to report to MacMillan Yard to obtain clothing and lanterns from their lockers and be transported from MacMillan to Mimico, return, with one hour arbitrary to be paid in each direction. According to the Union that is what was intended in 1966, when MacMillan Yard, then known as Toronto Yard, was becoming operational.

The language of the Addendum, which I find clear and unambiguous, does not support the Union's position. That document makes a clear distinction between Toronto Terminal, which encompasses all of the Yards in Toronto, and Toronto Yard (or MacMillan Yard as it is now known). Paragraph (a), for example, specifically addresses the rights of road crews from outside Toronto who need to use the facilities in MacMillan Yard but are released from duty at some other point:

(a) Road crews not based at Toronto who are released from duty at a point other than Toronto Yard and who are required to make use of rest house facilities in Toronto Yard, will be provided free transportation from the point released from duty to the rest house.

Paragraph (e) expressly provides for the payment of an arbitrary of one hour in the foregoing circumstance. Likewise, paragraph (b) provides similar rights for non-Toronto road crews using Toronto Yard rest house facilities who are required to report for duty at another point in Toronto Terminal.

There is, however, no similar provision for Toronto based road crews. Their rights are entirely described in paragraph (c), and are expressly limited to transportation, and the payment of an arbitrary under paragraph (e) when they report for duty and are released from duty at two different points within Toronto Terminal. As the grievor in this case reported for duty and were released from duty at Mimico Yard, they cannot claim the protection of paragraph (c) of the addendum. For these reasons the grievance must be dismissed.

(signed) MICHEL G. PICHER
ARBITRATOR