

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1657

Heard at Montreal, Wednesday, June 10, 1987

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

UNITED TRANSPORTATION UNION

DISPUTE:

Claim of Conductor W.T. Andrews, Toronto, dated February 13, 1984, for payment of 100 miles at road switcher rates of pay, submitted under article 16 – Piloting of Agreement 4.16.

JOINT STATEMENT OF ISSUE:

On February 13, 1984, Conductor W.T. Andrews was called for service on Train A-554, Road Switcher service on the Oakville Subdivision.

At the time of call, the grievor requested he be provided a conductor pilot in accordance with article 16.3 (c) of Agreement 4.16. The Company declined the request. Conductor Andrews then refused to accept the call.

The Union contends that Conductor W.T. Andrews was entitled to be provided, on request, a conductor pilot under the provisions of article 16.3 (c) of Agreement 4.16 and that his subsequent claim for payment of 100 miles at Road Switcher rates of pay is valid.

The Company declined payment.

FOR THE UNION:

(SGD.) R. A. BENNETT
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) D. C. FRALEIGH
ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

J. B. Bart – System Labour Relations Officer, Montreal
D. W. Coughlin – Manager Labour Relations, Montreal
M. C. Darby – Coordinator Transportation, Montreal

And on behalf of the Union:

T. G. Hodges – Vice-General Chairman, Toronto
R. A. Bennett – General Chairman, Toronto
W. G. Scarrow – General Chairman, Sarnia
G. Bird – Local Chairman, Montreal

AWARD OF THE ARBITRATOR

The Union maintains that Conductor Andrews was entitled to the services of a pilot in the performance of Road Switcher duty on the Oakville Subdivision. Specifically, the work in question called for extensive switching during both daylight and nighttime hours at the Gulf Oil Refinery at Clarkson. The grievor's claim is made under article 16 of the collective agreement 4.16, which provides, in part, as follows:

16.1 When a pilot as defined in Operating Rules is required, a competent employee will be supplied in addition to the regular crew. An employee unfamiliar with the physical characteristics of any portion of the territory on which a pilot is required will not be required to act as a pilot thereon.

16.3 On request, conductors running over a line with which they are unacquainted will be furnished with a pilot, (another conductor if one is available), who will accompany the conductor. In the application of this paragraph, the number of trips over a particular territory during which a conductor is furnished a pilot before he is considered "acquainted" with such territory will be the subject of local agreement between the appropriate officer of the Company and the Local Chairman of the Union. In the event the local Company and Union Officers cannot agree to the determination of such number of trips, the matter will be resolved by the General Superintendent of Transportation and the General Chairman of the Union ...

It is common ground that Conductor Andrews was unfamiliar with the Gulf Oil facility, which was described without contradiction by the Union as a large and complex plant with miles of industrial trackage. The Union maintains that those circumstances warranted the assignment of a pilot pursuant to article 16.3. The Company asserts that the entitlement under that article relates only to a main line, and not to industrial trackage, and that in any event the information necessary to a Conductor was available from timetables and car reporting procedures.

The Arbitrator has some difficulty accepting the position of the Company. The purpose of article 16.3 is plainly to provide a measure of safety to Conductors who are required to run in strange territory. It is not clear that the hazards of operating over unknown trackage are any less merely because the trackage in question may be part of an industrial spur line where trains may operate at slower speeds. Such factors as the knowledge of track grades, curvature, familiarity with warning systems and the location of derails or other physical characteristics, particularly in a location as volatile as an oil refinery, are legitimate concerns. There is nothing in the material to suggest that Conductor Andrews' position was motivated by specious or frivolous considerations. The Arbitrator accepts that train movements at night at and around loading docks containing flammable and explosive materials require that the person in charge of the train's movements have access to the fullest knowledge of the physical characteristics of the area where such work is performed. That is not to say, and indeed the Union readily admits, that each time a Conductor ventures into a new segment of industrial trackage he or she can invoke the services of a Pilot. In many instances the small size and relative simplicity of an industrial yard will allow immediate familiarization with its physical features. The entitlement to a pilot under article 16.3 must, inevitably, depend on the circumstances of each particular case.

For the reasons given, in the instant case the Arbitrator can find nothing in the collective agreement to suggest that the entitlement to a Pilot on request was not intended in the circumstances which confronted Conductor Andrews on February 13, 1984. For these reasons the grievance must be allowed. The Arbitrator therefore orders that Conductor Andrews' claim for payment of 100 miles at road switcher rates be paid forthwith. I retain jurisdiction in the event of any dispute between the parties respecting the interpretation or implementation of this award.

(signed) MICHEL G. PICHER
ARBITRATOR