

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1801

Heard at Montreal, Thursday, June 16, 1988

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

EX PARTE

DISPUTE

Time claims #1 - 21, dated June 23 through August 16, 1987 in favour of Locomotive Engineer G. H. Middleton of Jasper, Alberta.

BROTHERHOOD'S STATEMENT OF ISSUE:

The Brotherhood of Locomotive Engineers is the certified bargaining agent who holds the contract to operate locomotives. As Locomotive Engineer Middleton was available and not used, contrary to Article 32 of Agreement 1.2, the Company thereby violated the Collective Agreement by using supervisory officers to operate these trains. Further, the Company is obligated to pay to the Brotherhood an amount in the sum of that amount reflected in the union dues which are deducted from the members working in Jasper for each supervisor who operated a train during this period of time.

The Company contends that the grievor violated the time limits specified in Paragraph 91.1(a) and refused to accept the grievance.

The Brotherhood contends that the Company refused to make the information required to submit these claims available, as requested by the Local Chairman. In any case, a late submission of a time-claim is not in itself a violation of Article 91.1(a). A time claim does not become a grievance until it is declined for payment by the Company.

FOR THE BROTHERHOOD:

(SGD) P. SEAGRIS

GENERAL CHAIRMAN

There appeared on behalf of the Company:

| | |
|---------------|--|
| L. A. Harms | – Labour Relations Officer, Montreal |
| J. R. Hnatiuk | – Manager, Labour Relations, Montreal |
| D. C. St. Cyr | – Labour Relations Officer, Montreal |
| K. MacDonald | – Manager, Labour Relations, Edmonton |
| D. Lussier | – Coordinator Transportation, Montreal |

And on behalf of the Brotherhood:

P. Seagris – General Chairman, Winnipeg

At the request of the parties, the Arbitrator adjourned the hearing.

On September 13, 1988: there appeared on behalf of the Company:

- L. A. Harms – Labour Relations Officer, Montreal
- D. C. St. Cyr – Labour Relations Officer, Montreal
- B. Ballingall – Manager, Labour Relations, Edmonton
- D. Lussier – Coordinator Transportation, Montreal
- J. W. Dear – Superintendent, Kamloops
- B. Crompt – Trainmaster, Kamloops
- A. J. Wagner – Assistant Superintendent, Edmonton

And on behalf of the Brotherhood:

- P. Seagris – General Chairman, Winnipeg
- P. Klippenstein – Local Chairman, Jasper
- D. Kipp – Senior Vice-General Chairman, Kamloops
- F. Zimmerman – Observer
- G. Hallé – Observer

AWARD OF THE ARBITRATOR

It is agreed that the facts in the instant case and those in **CROA 1802** are, for all material purposes, indistinguishable. For the reasons rendered in CROA 1802, therefore, the instant grievance must be dismissed.

September 16, 1988

(SGD) MICHEL G. PICHER
ARBITRATOR