

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1804

Heard at Montreal, Thursday, June 16, 1988

Concerning

CANADIAN NATIONAL RAILWAY

And

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

EX PARTE

DISPUTE:

Claims by Mr. F. Fraess, Foreman, and Mr. D. Maurer, Leading Track Maintainer, for four hours at punitive rate of pay.

BROTHERHOOD'S STATEMENT OF ISSUE:

On Monday, 20 May 1985, the track patrol on the Ardrossan Section, Wainwright Subdivision, was performed by Roadmaster L. Pyzik and Trackman L. Smith.

The Brotherhood contends that patrolling of track on a statutory holiday falls under the Maintenance of Way scope of work in accordance with Agreement 10.1, Article 32, Paragraph 32.3. Also, the Brotherhood further contends that track patrol on a statutory holiday has traditionally and historically been performed by the section crew.

The Company disagrees with the Union's contention.

FOR THE BROTHERHOOD:

(SGD) G. SCHNEIDER

SYSTEM FEDERATION GENERAL CHAIRMAN

There appeared on behalf of the Company:

G. C. Blundell	– Labour Relations Officer, Montreal
R. Lecavalier	– Counsel, Montreal
R. Paquette	– Senior Analyst, Montreal
A. Watson	– Labour Relations Trainee, System, Montreal
L. Pyzik	– Roadmaster, Edmonton

And on behalf of the Brotherhood:

D. McKee	– Counsel, Toronto
G. Schneider	– System Federation General Chairman, Winnipeg
M. Gottheil	– Counsel, Assistant to Vice-President, Ottawa
L. Boland	– System Federation General Chairman, Ottawa
R. S. Dawson	– Federation General Chairman, Winnipeg

AWARD OF THE ARBITRATOR

It is well settled, and indeed not disputed, that it is within the authority, and indeed the obligations, of a Roadmaster to conduct a personal inspection of the trackage under his jurisdiction at least once in a week. The material establishes that the inspection conducted by Roadmaster Pyzik in the instant case was the inspection which he conducted during the week in question. The Arbitrator can find nothing in the

Collective Agreement restricting the ability of the Company to order its affairs so as to schedule a Roadmaster's track inspection as it sees fit. Nor can it be asserted that the grievors had a proprietary right to the work in question on the holiday of Monday May 20, 1985. (*See CROA Case No. 1379.*)

For the foregoing reason the grievance must be dismissed.

June 30, 1988

(SGD) MICHEL G. PICHER
ARBITRATOR