

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2015

Heard at Montreal, Wednesday, 11 April 1990

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Claims of Locomotive Engineer M.A. Tarasiuk, Prince Albert, Saskatchewan, for loss of earnings September 3 and 4, 1984.

JOINT STATEMENT OF ISSUE:

On September 3, 1984, spare Locomotive Engineer Tarasiuk missed a call for Train 594 ordered for 1400 and consequently was held for 12 hours from the time ordered and then placed at the bottom of the board in accordance with Article 62.5 of Agreement 1.2. During this period of time a Locomotive Engineer was required for Train 586 ordered for 1830 September 3, 1984. As the spare board was exhausted, an Engine Service Brakeman was used.

Subsequently Locomotive Engineer Tarasiuk submitted claims for loss of earnings alleging that he should have been called ahead of the Engine Service Brakeman. The Brotherhood contends the Company violated Articles 32.7 and 62.5 of Agreement 1.2 by not calling Locomotive Engineer Tarasiuk.

The Company declined payment of the claims.

FOR THE BROTHERHOOD:

(SGD) D. S. KIPP
GENERAL CHAIRPERSON

FOR THE COMPANY:

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

There appeared on behalf of the Company:

L. Harms	– Labour Relations Officer, Montreal
P. J. Morrisey	– Manager, Labour Relations, Montreal
R. Paquette	– Labour Relations Officer, Montreal
M. Fisher	– Co-Ordinator, Transportation, Montreal

And on behalf of the Brotherhood:

D.S. Kipp	– General Chairman, Vancouver
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AWARD OF THE ARBITRATOR

The Arbitrator can find nothing in the provisions of the Collective Agreement which would prohibit the right of the Company to consider a qualified engine service brakeman as available for service as a locomotive engineer when the spareboard is depleted. By the terms of Article 62.5 of the Collective Agreement the grievor was properly held 12 hours from the time ordered because he missed a call for a road trip. In the Arbitrator's view it is of little consequence whether he was "held" or held off the board.

Article 62.6 explicitly states that the penalty provision is to be waived only when no other qualified locomotive engineers are available. That plainly was not the case on the occasion in question. It would seem to go without saying that persons standing on the locomotive engineers' spareboard are qualified locomotive engineers. The use of the word "qualified" in Article 62.6 therefore suggests that the parties contemplated persons who might be available who, although not on the locomotive engineers' spareboard, are nevertheless qualified to serve as locomotive engineers. That would, in my view, include an engine service brakeman qualified to serve as a locomotive engineer. Simply put, it seems uncontroverted that another qualified locomotive engineer was available at the time of the assignment which the grievor claims, a time when he was plainly under the disability of the penalty provisions of Article 62.5.

For these reasons the grievance must be dismissed.

April 12, 1990

(Sgd.) MICHEL G. PICHER
ARBITRATOR