

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2091

Heard at Montreal, Tuesday, 8 January 1991

concerning

VIA RAIL CANADA INC.

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

EX PARTE

DISPUTE:

Claim on behalf of various Locomotive Engineers at Kamloops, B.C., for final terminal time in excess of the 15-minute allowance provided for under Article 5.1.

BROTHERHOOD'S STATEMENT OF ISSUE:

After arrival at the final terminal of Kamloops, Locomotive Engineers are required to pull down past the station to the change-off point.

After stopping at the change-off point Locomotive Engineers are required to complete a Schedule A, secure their locomotives and walk to the station to register.

It is the Brotherhood's position that these duties are not to be included in the 15 minute arbitrary payment, as provided for under Collective Agreement 1.2, Article 5 and Addendum Number 31, and performing such duties should be paid for on a minute basis over and above the 15 minute arbitrary payment.

It is the Corporation's position that the duties performed are those contemplated under Article 5 and Addendum 31 and that the employees have been properly compensated.

FOR THE BROTHERHOOD:

(SGD.) D. S. KIPP
GENERAL CHAIRMAN

There appeared on behalf of the Corporation:

K. W. Taylor – Senior Labour Relations Officer, Montreal
D. F. Doig – Officer, Transportation, Winnipeg

And on behalf of the Brotherhood:

W. A. Wright – Acting General Chairman, Kamloops

AWARD OF THE ARBITRATOR

It is common ground that the filling out of Schedule A has added a duty in respect of documentation by an locomotive engineer prior to detraining. In this regard, however, Article 5.1 and 5.2 of the Collective Agreement provide as follows:

- 5.1** Locomotive engineers will be allowed a minimum of 15 minutes after arrival at station, change-off point, shop or designated track.
- 5.2** Locomotive engineers in passenger service will be paid for such time on the basis of 20 miles per hour and in all other service on the basis of 12-1/2 miles per hour for the performance of inspection and such other duties as may be required.

In addition to the above provision, Section B of Addendum 31 lists a number of duties to be completed by the locomotive engineer in respect of his or her final inspection time, before going off duty. The following provision is found within Section B of Addendum 31:

The listed duties established basic minimal duties required of locomotive engineers under normal conditions when taking charge of or before leaving engines. **However, it is recognized that additional work might on occasion arise in connection with the performance of these duties.** Defects or abnormalities may be noted during the performance of these duties, and corrective action on the part of the locomotive engineer may be required. In either event **if the time required for the performance of these duties exceeds the arbitrary allowance, the locomotive engineer will be compensated for all such excess time on the minute basis until the duties are completed.**

(emphasis added)

The foregoing provision appears in the context of a discussion of the obligation of locomotive engineers in respect of objections raised concerning the type of duties required of them which might differ from the duties specifically enumerated within Section B of Addendum 31. In the Arbitrator's view the language of Addendum 31 is clear in its intent. It recognizes that locomotive engineers may, on occasion, be required to perform duties other than those specifically listed in Section B relating to the payment of the arbitrary allowance. Most importantly, it expressly establishes that such duties are to be paid for separately only to the extent that the time required to perform them exceeds the time allotted for the arbitrary allowance. In other words, if the duties in question can be performed within the arbitrary time of fifteen minutes provided for in Article 5.1 of the Collective Agreement, no separate payment is owing.

That is plainly the case here. It is not disputed that all of the tasks accomplished by the locomotive engineers at Kamloops, including completing the Schedule A, securing their locomotives and walking back to the station to register are done within the fifteen minute period contemplated in Article 5.1 of the Collective Agreement. In these circumstances, having regard to the express language and intention of Addendum 31, the Arbitrator can find no entitlement to any additional payment, and no violation of the Collective Agreement by the Corporation.

For these reasons the grievance must be dismissed.

January 11, 1991

(Sgd.) MICHEL G. PICHER
ARBITRATOR