

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2376

Heard at Montreal, Tuesday, 13 July 1993

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

EX PARTE

DISPUTE:

Appeal of the Company's decision not to honour sixty-eight time claims which were submitted in accordance with the provisions of Article 73.5(b) of Agreement 1.1.

BROTHERHOOD'S STATEMENT OF ISSUE

Effective August 1, 1992, CN Rail Atlantic implemented a new system of train scheduling to better meet customer requirements. As a consequence of this new train schedule, 3 regular Halifax locomotive engineers' positions were relocated from Halifax, Nova Scotia to Moncton, New Brunswick. The Brotherhood appealed the loss of the 3 regular assignments in Halifax and the locomotive engineers affected began submitting time claims for lost trips. Sixty-eight of these time claims were rejected by the Company and subsequently appealed by the Brotherhood in compliance with the procedural steps of the grievance procedure. At Step III of the grievance procedure the Company failed to respond within the defined time limits as specified in article 73.1(c) (1)(2), thus placing the disputed time claims payable through the punitive provisions of article 63.5(b) of agreement 1.1

The Company refuses to pay the sixty-eight time claims in accordance with article 73.5(b) of agreement 1.1

FOR THE BROTHERHOOD:

(SGD.) B. E. WOOD

GENERAL CHAIRMAN

There appeared on behalf of the Company:

L. F. Caron	- System Labour Relations Officer, Montreal
D. W. Coughlin	- Manager, Labour Relations, Montreal
W. D. Agnew	- Manager, Labour Relations, Moncton
B. O. Steeves	- Transportation Officer, Moncton

There appeared on behalf of the Brotherhood:

B. E. Wood	- General Chairman, Halifax
G. Hallé	- Canadian Director, Ottawa
C. Hamilton	- General Chairman, Kingston
W. A. Wright	- General Chairman, Saskatoon
R. Lebel	- General Chairperson, UTU, Quebec

AWARD OF THE ARBITRATOR

The material before the Arbitrator establishes that a number of locomotive engineers filed time claims in respect of runs which they claim were wrongfully transferred from the home station of Halifax to the home station of Moncton. The grievors are all Halifax employees, and it is clear that the time claims that they filed were in support of their allegation of a violation of article 78 by the Company, in that it failed to give notice of a material change in working conditions to the Brotherhood.

It is not disputed that the time claims so filed were not responded to in a timely fashion by the Company, as required by article 73.1. The issue is whether the claims are to be paid in accordance with the punitive provisions of article 73.5(b) of the collective agreement.

In the Arbitrator's view the grievance must fail. For the reasons related in **CROA 552** and **CROA 1799**, what is before me is not, in essence, a series of disputed time claims. As the face of the time returns themselves discloses, the substance of the dispute is an allegation that the Company violated article 78 of the collective agreement, and that certain locomotive engineers at Halifax are therefore entitled to be made whole. The grievance does not involve the computation of time returns within the contemplation of article 72 of the collective agreement. Rather, it concerns the alleged failure of the Company to respect the terms of article 78 of the collective agreement in the implementation of a change in home stations, a matter which is itself the subject of another grievance and award (*see CROA 2375*).

For the foregoing reasons the grievance must be dismissed.

July 16, 1993

(Sgd.) MICHEL G. PICHER
ARBITRATOR