

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2579

Heard in Montreal, Tuesday, 14 February 1995

concerning

VIA RAIL CANADA INC.

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

EX PARTE

DISPUTE:

The reduction of claims made pursuant to Addendum 31, Section C, of collective agreement 1.2 and the application of a ten minute buffer to further reduce Addendum 31, Section C, claims made by various locomotive engineers at Kamloops, B.C.

BROTHERHOOD'S STATEMENT OF ISSUE:

As a result of the "mile chart system of pay" introduced by the Corporation, a notice was posted to the effect that locomotive engineers home stationed at Kamloops would be paid 310 or 295 miles when operating trains to Vancouver and Jasper respectively. Included in those miles was a ten minute (3 mile) buffer to minimize the submission of exception claims when trains were delayed up to ten minutes at the initial or final terminal. On or about February 28, 1994, the Corporation began to apply the ten minute buffer to claims made pursuant to Addendum 31, Section C.

It is the Brotherhood's position that claims made pursuant to Addendum 31, Section C, are to be paid over and above the time paid for other service and cannot be reduced by the ten minute buffer. Also, that claims made pursuant to Addendum 31, Section C are not, in all cases, subject to a maximum of fifteen minutes.

FOR THE BROTHERHOOD:

(SGD.) M. SIMPSON
FOR: GENERAL CHAIRMAN

There appeared on behalf of the Corporation:

K. Taylor – Senior Advisor and Negotiator, Montreal
D. A. Watson – Senior Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

W. A. Wright – General Chairman, Saskatoon
M. Simpson – Sr. Vice-General Chairman, Saskatoon
R. Lussier – Vice-General Chairman, Saskatoon

AWARD OF THE ARBITRATOR

The material before the Arbitrator establishes that the miles chart system of pay introduced for locomotive engineers in Kamloops included a ten minute (3 mile) buffer. The purpose of that initiative was to reduce exception claims being filed in the event of minor delays in initial or final terminal service. The grievance arises because certain Kamloops locomotive engineers submitted exception claims in respect of the duties performed under Addendum 31, section C of the collective agreement. Effective February 28, 1994 the Corporation advised the Brotherhood that it would reduce Addendum 31, section C claims by applying the 10 minute buffer.

On a review of the material filed, and the language of Addendum 31, section C of the collective agreement, the Arbitrator is satisfied that in the circumstances of the case at hand the position of the Corporation must be sustained. It is necessary, I think, to apply a purposive and reasonable approach to the buffer payment, the very object of which is to avoid exception claims of various kinds. Moreover, it is not disputed that the Corporation remains prepared to compensate employees for Addendum 31 service of unusual length, where circumstances justify such payment, in keeping with the award in **CROA 2452**. The Arbitrator cannot accept the submission of the Brotherhood that the use of the ten minute buffer, as disclosed in the case at hand, violates the spirit and intent of Addendum 31, section C, or the mutual intention of the parties with respect to the application of that provision.

For all of the foregoing reasons the grievance must be dismissed.

17 February 1995

(signed) MICHEL G. PICHER
ARBITRATOR