

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2666

Heard in Calgary, Tuesday, 14 November 1995

concerning

CANADIAN PACIFIC RAILWAY LIMITED

and

**CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS
(UNITED TRANSPORTATION UNION)**

EX PARTE

DISPUTE:

The run-around claim of Conductor T.B. Dunbar and crew, Cranbrook, B.C., for October 30, 1991.

COUNCIL'S STATEMENT OF ISSUE:

Conductor Dunbar and crew claimed a run-around at Cranbrook by a crew called for 0530, in view of the fact that the train Conductor Dunbar and crew were called for had not been built and the engine had not been received from the shop track until 0635 on October 30, 1991.

The Union contends that in accordance with article 14, clause (a) of the collective agreement, Conductor Dunbar and crew were entitled to be used first-in and first-out and should have been used as the crew on the train called for 0530. In view of this opinion, a run-around would be in order and payment of 50 miles should be placed in line for payment.

The Company contends that Conductor Dunbar and crew, for whatever reason, chose to remain in the comfort of the station without receiving their engines from the shop track, although the power was fully serviced and released well in advance of their call time. Based on this, the Company contends that Conductor Dunbar and crew relinquished their rights to claim a run-around under article 14, clause (a) and for that reason, declined payment.

FOR THE COUNCIL:

(SGD.) L. O. SCHILLACI
GENERAL CHAIRPERSON

There appeared on behalf of the Company:

L. Guenther – Labour Relations Officer, Vancouver
M. E. Keiran – Manager, Labour Relations, Vancouver

And on behalf of the Council:

L. O. Schillaci – General Chairperson, Calgary
K. Jeffries – Vice-General Chairperson, Cranbrook

AWARD OF THE ARBITRATOR

It is not disputed that a crew called after the crew of Conductor Dunbar departed Cranbrook in advance of Conductor Dunbar and his crew. The case involves a straightforward application of article 14(a) of the collective agreement which provides as follows:

14 (a) First-in and First-out Rule

Unassigned crews in freight service and spare men will run first-in first-out of terminals.

When an unassigned crew has come on duty in turn and they have got their engine and commenced work, they will remain with the train called for, even though another crew comes on duty later and gets out of the terminal first.

A crew will have commenced work when all members of the crew have reported for duty at the time required and when it has received the engine from shop, tie up or other track, except that on run through trains a crew will be regarded as having commenced work when all members of the crew have reported for duty.

The evidence before the Arbitrator confirms that the train for which Conductor Dunbar and crew were called was not fully assembled when they came on duty. While there is some dispute as to whether their locomotive units were prepared and released for departure from the shop track, even if one accepts that they were, there is no evidence that the crew had yet received their engine from the shop, or had been instructed to proceed to the shop to take delivery of it. In these circumstances, having regard to the clear language of article 14(a) of the collective agreement the Arbitrator cannot find that the crew had in fact "commenced work" within the meaning of article 14(a) at the time the crew called subsequently was assigned to another train and departed ahead of them.

The claim of run-around must therefore be found to be made out. The Arbitrator therefore directs that the Company pay to the grievors, Conductor Dunbar and Trainperson Chauncey of Cranbrook, a penalty payment of fifty miles in accordance with article 14(b) of the collective agreement.

November 20, 1995

(signed) MICHEL G. PICHER
ARBITRATOR