

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2905

Heard in Calgary, Wednesday, 12 November 1997

concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

**CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS
(BROTHERHOOD OF LOCOMOTIVE ENGINEERS)**

DISPUTE:

Violation of article 5(b)(7) to (17) (Turnaround Combination Service) by the Company on June 17, 1996.

JOINT STATEMENT OF ISSUE:

On June 17, 1996, Locomotive Engineer L.R. Hunt was ordered out of Lethbridge in turnaround combination service to deadhead to an intermediate point (Aldersyde) to work the train to Alyth, the away-from-home terminal, and then deadhead back to Lethbridge.

The Council contends that the provisions of article 5(b)(7) to (17) of the current collective agreement do not provide for this type of call and Locomotive Engineer Hunt should have been called under article 5(b)(6) combination service to Alyth and placed in the pool upon arrival.

The Council requests that Locomotive Engineer Hunt be compensated for the loss of 72 miles for not being properly called under combination service.

The Company denies the violation.

FOR THE COUNCIL:

(SGD.) D. C. CURTIS
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) K. E. WEBB
FOR: GENERAL MANAGER, PRAIRIE REGION

There appeared on behalf of the Company:

R. M. Smith	– Labour Relations Officer, Calgary
K. E. Webb	– Manager, Labour Relations, Calgary
G. S. Seeney	– Manager, Labour Relations, Calgary
R. V. Hampel	– Labour Relations Officer, Calgary
J. H. McFarlane	– Manager, Yard Operations, Calgary

And on behalf of the Council:

D. C. Curtis	– General Chairman, Calgary
J. Flegel	– Senior Vice Chairman, Saskatoon
R. Lewis	– Local Chairman, Revelstoke
R. Cameron	– General Secretary/Treasurer, Revelstoke
B. Knowles	– Local Chairman, Lethbridge

AWARD OF THE ARBITRATOR

In the Arbitrator's view, it is significant that article 5(b)(6) speaks in terms of an "intermediate point". It reads, in part, as follows:

COMBINATION

(5) (b) (6) Locomotive Engineers and Trainpersons required by the Company to deadhead to an intermediate point and then going from such point to a terminal in either straightaway or turn service or going into work train service for the balance of the day, or vice versa, will be paid for the combination deadheading and working service as follows:

Articles 5(b) (7) to (17) inclusive deal with turnaround combination service. These articles appear to speak exclusively in terms of either working or deadheading entirely to the away-from-home terminal, and/or from the away-from-home terminal. The articles pertinent to this grievance are as follows:

(5) (b) (11) Locomotive Engineer and/or Trainman called in turnaround combination service, will be ordered from the home terminal to the away-from-home terminal. Employees working in turnaround combination service cannot book rest, as provided for by the existing, applicable collective agreement(s), within the 12 hours provided for in Clause (13) below.

(5) (b) (14) A crew called in turnaround combination service who works to the away-from-home terminal and does not stand first out at the time deadheading would commence, will have their call changed to straightaway service and will be paid accordingly. The crew will then be placed in the pool at the away-from-home terminal in their proper order at which time they may book rest. Under such circumstance and depending on operating requirements, it may be appropriate to deadhead the first out crew to the home terminal.

A crew called in turnaround combination service who deadheads to the away-from-home terminal and who are not first out upon arrival will be advised by the RTC if held in TCS service for a subsequent train. Should that crew not be so held, their call will be changed to straightaway service and they will be paid accordingly. The crew will be released and placed in the pool at the away-from-home terminal in their proper order at which time rest may be booked.

(5) (b) (15) When deadheading precedes working service, employees ordered in TCS will be paid deadheading on a continuous basis until working service commences. Upon arrival at the away-from-home terminal the crew is to contact the Rail Traffic Controller who will advise the time working service will commence. Working service will commence no later than 2 hours after the crew's arrival at the away-from-home terminal. Employees will be paid for the working service on a continuous time basis from the time working service commences until departure from the OMTS or designated point.

When deadheading follows working service the crew will remain in working service until deadheading commences.

...

If the Company's interpretation were to be accepted, it becomes unclear why the parties would have included article 5(b)(6) in the collective agreement. In the Arbitrator's view, the presence of the article, which describes the assignment of Locomotive Engineer Hunt, suggests that the Council's interpretation of the meaning of turnaround combination service, a concept which nevertheless represents distinct advantages and savings to the Company, is more compelling.

The grievance is therefore allowed. Locomotive Engineer Hunt is to be compensated at the claimed rate of 72 miles.

November 25, 1997

(signed) MICHEL G. PICHER
ARBITRATOR