

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2955

Heard in Calgary, Thursday, 14 May 1998

concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

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

DISPUTE:

Grievance of Conductor R.L. Semeniuk of Nanaimo, B.C. and claim for deadheading from Wellcox to Port Coquitlam, February 14, 1995.

JOINT STATEMENT OF ISSUE:

Mr. Semeniuk was informed by a Company officer that he was being forced to the adjacent home terminal of Port Coquitlam effective February 15, 1995 under the provisions of the Conductor-Only Agreement, article 9A(8)(b). The grievor subsequently submitted a wage claim as provided for in article 22.5, 100 miles for deadhead service terminal to terminal. The Company refused payment of this wage claim.

The Council contends that the Company has not adhered to the provisions of article 22.5 of the collective agreement and requests this wage claim be placed in line for payment.

The Company contends that Conductor Semeniuk was not called for deadhead service and has declined his claim accordingly.

FOR THE COUNCIL:

(SGD.) J. KNOWLES
FOR: GENERAL CHAIRPERSON

FOR THE COMPANY:

(SGD.) K. E. WEBB
FOR: B. C. DISTRICT MANAGER

There appeared on behalf of the Company:

D. Loewen	– Assistant Labour Relations Officer, Calgary
M. E. Keiran	– Director, Labour Relations, Calgary
K. E. Webb	– Manager, Labour Relations, Calgary
G. S. Seeney	– Manager, Labour Relations, Calgary
R. V. Hampel	– Labour Relations Officer, Calgary

And on behalf of the Council:

J. K. Jeffries	– Vice-General Chairperson, Cranbrook
L. O. Schillaci	– General Chairperson, Calgary
J. Knowles	– Vice-General Chairperson, Calgary
E. DiCredico	– Vice-General Chairperson, Nanaimo
D. H. Finsson	– Secretary, Saskatoon

AWARD OF THE ARBITRATOR

The issue in the instant case is whether the grievor can bring himself within the terms of article 22.5 of the collective agreement. That provision reads as follows:

22.5 Locomotive Engineers and Trainpersons required by the Company to deadhead from one terminal to another, irrespective of the manner in which the deadheading is done, shall be paid on the basis of 12-1/2 miles per hour (and overtime if any) at the through freight rate. Time to be calculated from the time ordered for until arrival at objective terminal. Except as provided for below not less than 8 hours will be paid.

Upon a review of the materials filed the Arbitrator cannot agree with the Council that Mr. Semeniuk was ordered by the Company to deadhead. What the evidence discloses is that the grievor was forced, by reason of his seniority, from service at the Wellcox terminal, on Vancouver Island, to work in the Port Coquitlam terminal. It would seem that he was given a number of days to make his travel arrangements and report for work at Port Coquitlam, in accordance with his own schedule. In the circumstances I am satisfied that he was properly treated by the Company under the terms of article 9A(8)(b) of the collective agreement which reads as follows:

(b) A protected employee required to relocate on a temporary basis will be supplied transportation to and from the shortage location, adequate accommodation and transportation to and from the work site if required.

In the Arbitrator's view the fact that the grievor was authorized to use his own automobile in travelling to Port Coquitlam, and was reimbursed for his mileage at the rate provided for in article 1(k) of the collective agreement does not alter the essential nature of what transpired. In essence this case concerns an employee being transferred from one location to another on a temporary basis, and not a circumstance in which an employee is ordered to deadhead or is otherwise entitled to pay for the time involved in travel to his new location.

For the foregoing reasons the grievance must be dismissed.

May 19, 1998

(signed) MICHEL G. PICHER
ARBITRATOR