

**CANADIAN RAILWAY OFFICE OF ARBITRATION  
& DISPUTE RESOLUTION  
CASE NO. 4085**

Heard in Montreal, Tuesday, 14 February 2012

Concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

And

**TEAMSTERS CANADA RAIL CONFERENCE**

**EX PARTE**

**DISPUTE:**

Alleged violation of article 12.1 and Addendum 40 of Agreement 1.2 when Locomotive Engineer Blackburn was instructed to yard his train at his final terminal of Prince George, BC in a single track, then apply and release the automatic brake valve and, finally, make a train separation before going off duty on April 9, 2011.

**COMPANY'S STATEMENT OF ISSUE:**

On April 9, Locomotive Engineer Blackburn yarded his train in track AA04 upon arrival at his final terminal of Prince George. He was then instructed to apply and release the automatic brake valve, pull the train forward to separate the train in order to expose a bad order car (BCNE 901020) allowing the Mechanical Department access to make the necessary repairs. The grievor was paid terminal detention for the period of time the above duties were completed.

The Union contends that the instructions violated Article 12.1 and Addendum 40 of Agreement 1.2.

The Company disagrees with the Union's contentions.

**FOR THE COMPANY:**

**(SGD.) D. CROSSAN**

**FOR: DIRECTOR, LABOUR RELATIONS**

There appeared on behalf of the Company:

D. Crossan	– Manager, Labour Relations, Prince George
K. Morris	– Sr. Manager, Labour Relations, Edmonton
P. Payne	– Manager, Labour Relations, Edmonton
M. Farkough	– General Manager, Surrey

There appeared on behalf of the Union:

K. Stuebing	– Counsel, Toronto
B. Willows	– General Chairman, Edmonton
T. Markewich	– Sr. Vice-General Chairman, Edmonton
B. R. Boechler	– General Chairman, CTY, Edmonton

### **AWARD OF THE ARBITRATOR**

The instant grievance gives rise to the interpretation and application of article 12.1 of the collective agreement which reads as follows:

**12.1** Where yard engines are on duty, locomotive engineers in freight service will be considered released from duty upon arrival at the final terminal of the trip for which called after they have yarded their train in a minimum number of tracks, including putting their caboose away and engines to the shop or other designated track. If necessary, such locomotive engineer will spot perishable or stock traffic for servicing or unloading and set off cars or bad order cars for future handling.

The facts in relation to this grievance are not in dispute. On April 9, 2011 Locomotive Engineer Blackburn operated train C76051-08 from Smithers to Prince George, British Columbia. At Prince George the grievor was told to pull his train into a single track. Once there he was instructed to participate in a number 1 brake test, while Carmen simultaneously inspected the train. Finally he was directed to operate his train a short distance so as to separate a bad order car.

The Union takes no issue with the grievor being required to set off a bad order car, as that is expressly contemplated within the provisions of article 12.1 of the collective agreement. Its counsel argues, however, that requiring Locomotive Engineer Blackburn to conduct a number 1 brake test is beyond what the collective agreement

contemplates with respect to the release of employees at final terminals. In essence, the Union argues that the work which the grievor was being asked perform in respect of the brake test was not in relation to his own train, but was preparatory to the onward handling of the train by another crew. Very simply, the Union argues, the work in relation to the brake test was beyond the release work contemplated in article 12.1 of the collective agreement.

The Company's representative argues that there is no language within article 12.1 which would prevent the assignment of a brake test in the circumstances of the instant case. She submits that in fact a brake test can be ordered at any time, including enroute, and that nothing in the collective agreement prevented the Company from assigning that task to Locomotive Engineer Blackburn upon his arrival at Prince George.

Upon careful consideration, the Arbitrator has some difficulty with case put by the Union. An overall reading of article 12 suggests that its primary purpose is to clarify that where yard engines are on duty locomotive engineers arriving at a destination terminal are not to be assigned switching in the yarding of their train. Where no yard engines are on duty necessary switching can be assigned as reflected in the following terms of article 12.2:

**12.2** Where no yard engines are on duty, locomotive engineers in freight service will perform necessary switching at the final terminal of the trip for which called, provided they have not been on duty in excess of 8 hours upon arrival at such point. If the locomotive engineer has been on duty in excess of 8 hours upon arrival, he will only be required to perform those minimal duties which it is agreed may be performed at points where yard engines are on duty.

I find it difficult to conclude that paragraph 12.1 was intended as an exhaustive list of the duties which can be assigned to incoming crew prior to their release at a final terminal. How can it be argued, for example, that a crew could not be instructed to hold their train at a particular location, or indeed move it to another location, for example to facilitate the inspection of a car or other equipment before finally yarding their train and being released? There may be any number of duties which can properly be assigned to a train crew. Indeed, that would appear consistent with the language of article 11.2 of the collective agreement which governs detention and switching at final terminals and provides as follows:

11.2 Locomotive engineers will be paid on the basis of 12-1/2 miles per hours at the applicable rate at the initial terminals from the time due to leave shop or other designated track or change-off point until departure at outer switch; at final terminals from the time of arrival at the outer switch until arrival on shop track or other designated track or change-off point, and at turnaround points from time of arrival until time of departure at outer switch. Outer switch means the switch normally used in heading into the yard and road mileage commences and ends at the outer switch.

In the Arbitrator's view there is nothing within the express language of article 12.1 of the collective agreement, nor implicit from it, which would prevent the Company from directing a crew which is about to yard its train in a final terminal to conduct a brake test of their consist before the final yarding of their train. While this Office appreciates that a brake test is more traditionally performed by a departing rather than an arriving train crew, there is very simply nothing in the collective agreement which prevents the Company from directing the taking of a brake test upon arrival at a final terminal.

For these reasons the grievance must be dismissed.

February 20, 2012

**(signed) MICHEL G. PICHER**  
ARBITRATOR