

**CANADIAN RAILWAY OFFICE OF ARBITRATION
& DISPUTE RESOLUTION
SUPPLEMENTARY AWARD TO
CASE NO. 4259**

Heard in Montreal, April 10, 2014

Concerning

CANADIAN PACIFIC RAILWAY COMPANY

And

TEAMSTERS CANADA RAIL CONFERENCE

There appeared on behalf of the Company:

D. Guerin	– Director, Labour Relations, Calgary
B. Sly	– Director, Labour Relations, Calgary
N. Hasham	-- Legal Counsel, Toronto

There appeared on behalf of the Union:

K. Stuebing	– Counsel, Caley Wray, Toronto
D. Olson	– General Chairman, Calgary
D. Able	– General Chairman, Calgary
D. Fulton	– Vice General Chairman, Calgary
D. Edwards	– Vice General Chairman, Medicine Hat
G. Edwards	– Vice General Chairman, Revelstoke
B. Hiller	– General Chairman, Toronto
B. Brunet	– General Chairman, Montreal

SUPPLEMENTARY AWARD

Having reviewed the materials the Arbitrator has some difficulty with the position advanced by the Union with this grievance. It does not appear disputed that for some months the Company has called ad-hoc road switchers and relief road switchers by utilizing two employees off the road spareboard, constituting them as an ad-hoc road switcher assignment. While it appears that the Company did so for a time paying the employees in question road switcher rates, its position before the Arbitrator is based on the principal award in this file, is that it will pay employees at the unassigned freight service rate when called in extra or ad-hoc road switcher service. That, in my view, is in keeping with the very language of the Arbitrator's Award, which provides, in part:

... as the Union submits, in the face of the need for road switcher assignments the Company has two options: it can create, bulletin and fill a road switcher assignment in accordance with the rules of the collective agreement or, in the event of utilizing persons on an extra or ad-hoc basis, it can pay them at the proper rate which applies to unassigned freight.

In my view the above passage acknowledges the right of the Company to revert to creating extra or ad-hoc road switcher assignments. The thrust of the Award is to confirm that when it does so it must respect the proper wage provisions, paying the employees at the rate which applies to assigned freight.

The grievance now advanced by the Union would go considerably farther, and seek from the Arbitration a declaration which would effectively prevent the Company from calling unassigned employees into road switcher service other than in temporary vacancies. I must agree with the Company's interpretation, which is that the Award

herein recognized that the Company may call an extra or ad-hoc road switcher crew, but having done so must compensate the employees at the proper unassigned freight rates.

On the whole, therefore, I am satisfied that the instant grievance cannot succeed. I come to that conclusion, however, with the clear declaration that the Company acknowledges and undertakes that it will pay employees "... at the unassigned freight service rate when called in extra or ad-hoc Road Switcher Service."

On the whole, I cannot find any violation of the collective agreement on the material before me. The grievance must therefore be dismissed.

April 14, 2014

MICHEL G. PICHER
ARBITRATOR