

**CANADIAN RAILWAY OFFICE OF ARBITRATION
& DISPUTE RESOLUTION
CASE NO. 4295**

Heard in Calgary, March 12, 2014

Concerning

CANADIAN PACIFIC RAILWAY COMPANY

And

TEAMSTERS CANADA RAIL CONFERENCE

DISPUTE:

Appeal of claim for wages of Locomotive Engineer Eric Lundin.

EXPARTE'S STATEMENT OF ISSUE:

On January 20, 2010 Locomotive Engineer Eric Lundin's position stood first out as Engineer on the Coquitlam spareboard when train 2114-30 was ordered at Robert's Bank for 2300. The Company chose to bypass him and ordered an employee who was working as a Conductor and not set up as a Locomotive Engineer for this train.

The Union contends the work and wages associated were altogether lost for the employee set up in the class of service, of Locomotive Engineer. The work was given away to another class of service contrary to the Collective Agreement.

The Company responded to the Unions grievance asserting only a runaround payment is the appropriate penalty in this case.

The Union requests that Engineer Lundin be paid the lost wages claim in this case, with interest.

FOR THE UNION:
(SGD.) D. Able
General Chairperson

FOR THE COMPANY:
(SGD.)

There appeared on behalf of the Company:

M. Thompson	– Manager Labour Relations, Calgary
M. Moran	– Manager Labour Relations, Calgary

There appeared on behalf of the Union:

M. Church	– Counsel, Caley Wray, Toronto
G. Edwards	– Senior Vice General Chair, Revelstoke
D. Able	– General Chairman, Calgary
D. Fulton	– Senior Vice General Chairman, Calgary
D. Olson	– General Chairman, Calgary

AWARD OF THE ARBITRATOR

The only issue in this case is whether Locomotive Engineer Lundin ("the grievor"), whose home terminal is Coquitlam, is entitled to a runaround claim or to be made whole in respect of the Company's failure to call him in his proper turn for train 2144/30 out of Roberts Bank on January 30, 2010.

At the hearing, the parties agreed to the following facts. On January 30, 2010, the Company issued a call for spare locomotive engineer work at Roberts Bank. There were no locomotive engineers available in the Roberts Bank freight pool. The Company is then required to call the Coquitlam spareboard engineers for the work opportunity. Once that list of employees is exhausted, next in line for the work are the Roberts Bank engineers on days off requesting extra work, followed by Roberts Bank ESB's.

Instead of calling the grievor from the Coquitlam spareboard engineer list, the Company called an ESB, Mr. Skrypnyk, whose home terminal is Roberts Bank. He took the assignment. That same night, the grievor accepted a call to work train 198/31 out of Coquitlam.

The collective agreement provides for additional monetary entitlements to those employees who travel to a terminal other than their own for a work assignment. As a result, the grievor earned a lower wage.

As stated above, the Union submits that the grievor is entitled to the difference in wages between what he earned on January 30, 2010, and what he should have earned

but for having been denied the opportunity to work on train 2114/30. The Company asserts that the grievor is entitled to a "runaround claim."

Article 30.03 of the collective agreement contains a provision providing payment in the amount of 50 miles at passenger rates whenever an engineer is "avoidably runaround."

It is to the jurisprudence provided by the parties that I must turn to resolve the instant dispute. **CROA 501** is of particular assistance. In that case, a yardman who stood first out was bypassed in favour of a yardman from another location. Arbitrator Weatherill makes clear that runaround claims are to be paid when an employee is improperly missed, or "runaround" when another employee from that same group is called in. He explains that a "runaround" for the purpose of a runaround claim occurs when the employee who is entitled to the work assignment is displaced by another on the same list. He writes:

The work opportunity is not lost to the group as such. The employee passed over is not then entitled to be paid what he would have been paid had he worked, but receives the limited compensation referred to in the article and it is important to note retains his place on the list – he holds his turn out.

In **CROA 2120** Arbitrator Picher adopts the meaning of runaround articulated by Arbitrator Weatherill. In **CROA 2120** two locomotive engineers, the grievors, home-terminal at Kamloops were unreasonably denied the work opportunity to deadhead to Blue River for Train No. 3 when Jasper home-terminal engineers operated it through to Kamloops. They were not "runaround." They did not secure any work at all. As such they were entitled to be compensated for the entire loss of earnings for the work lost. That loss

of earnings was to be adjusted by any amount paid to them in respect of the Company's position that they had been "runaround."

The Company relies on **CROA 2505**, which it asserts was similar to the case at hand. In that case Arbitrator Picher dismissed the grievance. The Company submits the case supports its position that the grievor was entitled to be compensated in accordance with article 30.03 of the collective agreement in the circumstances at hand. I have read **CROA 2505** and I don't see how it helps the Company.

In **CROA 2505** the grievor, a locomotive engineer, should have been called to fill a vacancy on train 215. Instead, an engine service brakeman was called to fill it. Shortly thereafter the grievor was called to deadhead on train 201. The Company paid the grievor the difference in wages lost between what he should have earned had he worked the vacancy to which he was entitled and the one he actually worked. Arbitrator Picher dismissed the grievance because he was seeking compensation for the vacancy for which he should have been called in addition to the wages actually earned on train 201.

In light of the meaning of runaround articulated in **CROA 501** and adopted by Arbitrator Picher in **CROA 2120**, it is apparent that the grievor is entitled to be compensated fully for the losses associated with the Company's failure to call him in on January 30, 2010. There was no "runaround" claim payable in respect of the Coquitlam spareboard engineers group, but rather, that group was denied a work opportunity. Accordingly, the grievor is entitled to be made whole. He is entitled to the difference in

wages he earned on train 198/01 out of Coquitlam and those he would have earned had he worked train 2144/30 out of Roberts Bank.

I remain seized with respect to implementation of this award.

March 20, 2014



CHRISTINE SCHMIDT
ARBITRATOR