CANADIAN RAILWAY OFFICE OF ARBITRATION

& DISPUTE RESOLUTION

CASE NO. 4300

Heard in Montreal, April 8, 2014

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

TEAMSTERS CANADA RAIL CONFERENCE

DISPUTE:

Policy grievance regarding the issuance of broadcast message 119070 by the Regional Manager of the Crew Management Centre establishing new guidelines with respect to the calling of Capreol crews at the away from home terminal of Toronto.

UNION'S EXPARTE STATEMENT OF ISSUE:

On August 16, 2010 broadcast message 119070 was implemented by the Crew Management Centre Regional Manager. This broadcast message directed that Capreol crews were to be called two hours in advance of the train ordering time. It further stated that the thirty (30) minutes taxi time and the fifteen (15) minutes preparatory time were to be included in two (2) hour call. The Union submitted a policy grievance stating that the direction given in the bulletin violated the provisions of article 60.1, 1.1 as outlined in the Principles for the Operations of Extended Runs.

The grievance was declined by the Company and the matter remains in dispute.

FOR THE UNION:	FOR THE COMPANY:
(SGD.) R. Caldwell	(SGD.)
General Chairman	

There appeared on behalf of the Company:

M. Marshall	– Senior Manager, Labour Relations, Toronto
D. Gagné	– Senior Manager, Labour Relations, Montreal
D. Larouche	– Manager, Labour Relations, Montreal
K. Morris	– Senior Manager, Labour Relations, Edmonton

There appeared on behalf of the Union:

M. Church	– Counsel, Caley Wray, Toronto
R. Caldwell	– General Chairman, Bancroft
P. Boucher	– Vice General Chairman, Belleville
M. Byrnes	– Local Chair, Capreol
J. Robbins	– General Chair, Sarnia
R. Hackl	– General Chair, Saskatoon
B. Willows	– General Chair, Edmonton

AWARD OF THE ARBITRATOR

The Union maintains that locomotive engineers should be viewed as reporting for duty at the time they meet and board a taxi which transports them to the terminal where they will commence active duty. It maintains, therefore, that under the calling procedures established between the parties they are entitled to a two hour call prior to the taxi time. The position of the Company is that the two hour call is calculated as prior to the actual on duty time or train order time. The dispute appears to have crystalized in relation to the calling of Capreol crews at the away-from-home terminal in Toronto.

At issue, in part, is the application of the extended run principles. Section 2 paragraph (G) of those principles states the following :

> All employees will receive as close as practicable to a two hour call at the away from home terminal, excluding Armstrong where employees will receive as close as practical to a one hour call.

The Company also raises a preliminary objection with respect to the timeliness of the grievances. Given the disposition of the grievances on their merits, I do not consider it necessary to consider that question.

The difference between the parties is relatively simple. The Company submits that the two hour call period provided for is to be calculated as prior to the train ordering time or actual on duty time. The Union submits, to the contrary, that the calling obligation should be based on the calculation of two hours prior to the taxi time whereby employees are taken from their accommodation to the location of their train. Implicit in

the Union's position is that employees effectively go "on duty" when they report for a taxi.

The Arbitrator has some difficulty with that submission. To be sure, employees who are travelling by taxi at the direction of the employer are, in a certain sense, under certain obligations.

Article 82.5 of the collective agreement provides as follows:

> Locomotive engineers in freight service will be compensated for time spent travelling to and from accommodations, at the away-from-home terminal, provided that such accommodations are a distance of 15 miles or more from the location where the locomotive engineer comes on and goes off duty. Time spent travelling to and from accommodations will be paid for on the basis of 30 minutes for distance of less than 20 miles and 1 hour for distances of 20 miles or more at the rate of pay of service performed, such time not to be considered as time on duty. The provisions of this paragraph 82.5 do not apply in respect of locomotive engineers performing work train service.

I am compelled to agree with the Company that the language of the foregoing provision reflects the parties' understanding that time travelling to and from accommodations is not to be considered as "on duty" time. If that is so, on what basis can it be argued that the two hour call must be calculated on the basis of taxi time, and not actual on duty time in the operation of a train?

In my view the clear language of article 60.1 of the collective agreement must be viewed as supporting the interpretation of the employer. That language reads, in part:

> …at the away from home terminal no less than (1) hour (or 2 hours for extended run crews as per NOD Principles for Extended Run Operation) in advance, of the time required to report for duty.

I have some difficulty in accepting that the concept of the “report for duty” contemplated within the language of Article 60.1 refers to the point in time in which an employee boards a taxi to be transported to the place of active duty. While, as noted above, it may be that the employee is under a qualified obligation towards the employer while riding in a taxi, it is far from clear to the Arbitrator that that situation corresponds to the “report for duty” contemplated under Article 60.1 of the collective agreement. In my view the better interpretation would be that the time required to report for duty refers to the time at which an employee reports for his or her on duty train time. Logic would suggest that the call period established in the collective agreement would relate to the commencement of active work, and not to periods of transportation whether in a taxi or otherwise. The foregoing interpretation is, moreover, consistent with the intention of the parties as reflected in article 82.5, whereby the travel to and from accommodations is not to be considered as on duty time. On an examination of all of these provisions I am satisfied that it is train time, and not taxi time, which must be looked to for the purposes of establishing the calling periods agreed to between the parties.

For all of the foregoing reasons the grievance must be dismissed.

April 14, 2014

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MICHEL G. PICHER
ARBITRATOR