

**CANADIAN RAILWAY OFFICE OF ARBITRATION**  
**& DISPUTE RESOLUTION**  
**CASE NO. 4413**

Heard in Montreal, June 11, 2015

Concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

And

**TEAMSTERS CANADA RAIL CONFERENCE**

**DISPUTE:**

Assigning Vancouver Conductor Lester, to operate a Conductor (Yard) Only Transfer from Thornton yard to Sapperton, Sapperton to Lynn Creek and return from Lynn Creek to Thornton yard.

**JOINT STATEMENT OF ISSUE:**

The parties disagree on the interpretation of what constitutes a two way transfer as described in Agreement 4.3.

The Union submits that the grievor was required to perform a transfer that included three distinct separate legs or way; Thornton yard to Sapperton, Sapperton to Lynn Creek and return from Lynn Creek to Thornton yard. The Union's position is such a transfer is a violation of Articles 75.2 and 83A of the Collective Agreement 4.3 which only requires Conductor (Yard) only transfers to operate two ways.

The Company disagrees that the work assigned and performed by Conductor Lester was a violation of the Agreement.

**FOR THE UNION:**  
**(SGD.) R. S. Donegan**  
General Chairman

**FOR THE COMPANY:**  
**(SGD.) D. Crossan for D. VanCauwenbergh**  
Director Labour Relations

There appeared on behalf of the Company:

D. Crossan	– Labour Relations Manager, Prince George
K. Morris	– Senior Labour Relations Manager, Edmonton
M. Merson	– Superintendent, BC South
D. Brodie	– Labour Relations Manager, Edmonton

There appeared on behalf of the Union:

K. Stuebing	– Counsel, Caley Wray, Toronto
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R. Donegan	– General Chairman, Saskatoon
J. Robbins	– General Chairman, Sarnia
R. Hackl	– Vice General Chairman, Saskatoon
B. Barr	– Vice General Chairman, Edmonton
J. Lennie	– Vice General Chairman, Port Robinson
B. Willows	– General Chairman, Edmonton
B. Ermet	– Senior Vice General Chairman, Edmonton

### **AWARD OF THE ARBITRATOR**

1. The issue is whether Vancouver Yard Conductor Lester did a two-way transfer, or whether he worked three distinct legs, in his assignment on April 30, 2014. All of his assignment took place within the Greater Vancouver Terminal (GVT). Employees assigned to “transfer service”, such as Yard Conductor Lester was, are classified as yard service when moving railway equipment exclusively within a terminal between originating and destination points.

2. The grievance matters because, if there were three legs to the transfer then an assistant conductor was required. If there were only two legs on route, then no assistant conductor was required, as occurred. The default in the collective agreement is a full crew: conductor and assistant conductor. The exception allows for a yard conductor only in specified circumstances.

3. The Grievor transferred from Thornton yard to Sapperton, from Sapperton to Lynn Creek and he returned from Lynn Creek to Thornton yard. The Company says that the stop in Sapperton to pick up cars was on route to Lynn Creek, as part of the same

leg. The Union says Sapperton is a separate destination, so Thornton yard to Sapperton is a separate leg of the transfer from Sapperton to Lynn Creek.

4. The relevant portion of Article 83A reads as follows:

ARTICLE 83A

**Consist of Crews - Conductor (Yard) only Transfer**

83A.1 Notwithstanding the provisions of Articles 82 and 83 yard transfers may be operated with a conductor (yard) but without an assistant conductor provided that:

...

(e) Such transfer movements will make no more than two stops en route, in any one direction, between the originating and destination yards or interchanges for the purpose of taking on and/or setting out a car or group of cars together;

5. A transfer is defined in the CRO Rules:

An engine with or without cars operating on main track at speeds not exceeding 15 MPH and need not be TIBS [Train Information Braking System] equipped.

6. The details of the transfer on April 30, 2014 are as follows. Yard Conductor Lester started his shift at Thornton yard, from where he travelled light engine to Sapperton Interchange where he was required to lift 86 cars. The Union argues this was the first of the two legs that conductor (yard) only transfers can travel. Yard Conductor Lester travelled 2 miles on the BN/SF New Westminster subdivision. At that point the track diverged from the BN/SF subdivision and proceeded approximately 1/3 of a mile to the CP Westminster subdivision. After entering the CP Westminster subdivision, he travelled 1/2 of a mile until reaching mile 5.3, at which switch he gained access to the Sapperton interchange.

7. Yard Conductor Lester was required to transfer cars from Sapperton to Lynn Creek yard. After picking up the required traffic (86 cars) he reversed direction, travelling another 3/4 a mile on the CP Westminster subdivision before encountering a switch diverting him back to the BN New Westminster Subdivision which he re-entered at mile post 145.4, on route to Lynn Creek yard. This, the Union submits, completed the second leg of the two ways conductor (yard) only transfers are required to go. The Company sees this portion of the transfer as part of the leg from Thornton Yard to Lynn Creek, a stop at Sapperton en route to Lynn Creek.

8. Yard Conductor Lester was then required to take another transfer of cars from Lynn Creek to Thornton yard. He assembled his next transfer by coupling 59 cars in Lynn Creek yard (origin point) and operated his movement to Thornton yard (objective yard) via the New Westminster subdivision. He returned to Thornton via the Second Narrows Bridge and on the BN New Westminster Subdivision. This journey constituted, according to the Union, a third leg. The Company sees this portion of the transfer as the second leg of a two-way transfer.

9. The Union submits that the usual route for a two-way transfer is to traverse the BN New Westminster subdivision from Thornton to Lynn Creek and return. The Union argues that the diversion to the CP Westminster Subdivision creates a separate transfer and that Sapperton is a discrete destination and interchange, not an en route location.

10. The Union points out that Sapperton interchange has, for more than 20 years, been an originating or terminating location for transfer crews within the terminal of Vancouver. Conductor (yard) only transfers have travelled from Thornton yard to Sapperton interchange and returned to Thornton yard; or from Lynn Creek to Sapperton interchange and returned to Lynn Creek. Such transfers have always been considered two way transfers, as contemplated by the 1992 Conductor Only Agreement.

11. The Company takes a different view of the historical experience. Conductor (Yard) only transfers are limited to two stops en route between the origin (point "A") and final destination (point "B") for the purpose of picking up or setting out rail equipment. The Company says that is exactly what Conductor Lester did, consistent with the long historical practice since the provision was agreed in 1992. He picked up rail equipment at Sapperton en route to Lynn Creek, Sapperton being a stop from Thornton yard to Lynn Creek.

12. The parties therefore allege different historical practices. I am unable to resolve that difference and so I cannot rely upon the historical practice. There is also no suggestion of an estoppel.

13. In brief, the question is, was Sapperton an en route stop location or a distinct transfer when travelling in any one direction?

14. The route via Sapperton, between Thornton yard and Lynn Creek, is a diversion

from the direct line between Thornton and Lynn Creek, albeit a short one. The route back from Lynn Creek to Thornton is direct, with no diversion. The Union therefore argues that the movement to Sapperton is not a stop on the transfer from Thornton yard to Lynn Creek, but a separate destination and accordingly a distinct transfer.

15. The Company responds that Article 83A.1 does not restrict the Company from requiring a transfer movement to make a reverse move en route to facilitate the pick-up or set-out of cars, nor does the Article say a pick-up or set-out en route must be adjacent to the main line. A stop en route may therefore mean that the pick-up or set-out of cars can be: adjacent to the main line; at a customer's spur or track; at a storage track; or at an interchange. The Company submits that the mere fact that a yard transfer crew must make a reverse move to facilitate the pick-up or set-out of rail cars en route does not change the final destination or objective yard for that transfer.

16. Article 83A.1(e) allows a yard conductor to conduct a transfer without an assistant conductor, provided, the transfer movements "will make no more than two stops en route, in any one direction, between the originating and destination yards or interchanges for the purpose of taking on and/or setting out a car or group of cars together". The stop or stops en route between the originating yard (Thornton yard) and the destination yard (Lynn Creek) must be "in any one direction". The stop at Sapperton was not in the same direction. It required a diversion, albeit a short one, off the one direction, to perform the taking on of the cars. This means that Sapperton was a separate destination. Lynn Creek was the destination from the Sapperton originating

yard, making that portion of the journey the second leg. The final portion, from Lynn Creek to Thornton Yard was the third leg of the journey. The transfer was from A to B to C to A. That is three separate legs.

17. The Company was therefore in breach of the collective agreement for requiring Yard Conductor Lester to do three transfers conductor (yard) only. The grievance is accordingly upheld. The remedy is referred to the parties for resolution. I remain seized of the implementation.

July 24, 2015



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CHRISTOPHER ALBERTYN  
ARBITRATOR