

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 107

Heard at Montreal, Tuesday, May 14th, 1968

Concerning

CANADIAN PACIFIC RAILWAY COMPANY (SD & PC DEPT.)

and

BROTHERHOOD OF RAILROAD TRAINMEN

EX PARTE

DISPUTE:

Concerning the interpretation and application of Article 17 of the current Collective Agreement.

EMPLOYEES STATEMENT OF ISSUE:

During the period February 14th to February 27th Dining Cars were used in the Montreal-Quebec service.

Buffet Car rates were paid to the Stewards and Chefs assigned to these cars during said period.

The Brotherhood contends that the Company are in violation of Article 17 of the Collective Agreement.

FOR THE EMPLOYEES:

(Sgd.) J. R. BROWNE
GENERAL CHAIRMAN

There appeared on behalf of the Company:

T. P. James	Manager, S.D., P.C. & N.S. - C.P.R., Montreal
J. W. Moffatt	Gen. Supt., S.D., P.C. & N.S. - C.P.R., Montreal

And on behalf of the Brotherhood:

J. R. Browne	General Chairman, B. R. T., Montreal
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AWARD OF THE ARBITRATOR

Article 17 of the agreement provides:

(e) Classification of Various Feeding Cars:

Dining Car	Seating capacity - 36 to 48 Elaborate menu of five courses.
Cafe Car	Seating Capacity - 18 Elaborate menu of five courses.
Buffet Car	Seating capacity - 10 to 16 Short order menu consisting of grilled and egg dishes. Meat pies, fruit pies, etc., not prepared on the car.
Coffee Shop Car	Seating capacity - 23 to 36 Limited short order menu consisting of chops, egg dishes, sandwiches, hamburgers and canned preparations Stews, pies, etc not prepared on the car.

When the standard of service and/or the seating capacity of a particular feeding unit is increased beyond the limits outlined above, the said feeding unit will be reclassified to the next higher classification.

It was submitted by the Brotherhood that when dining cars were used as claimed in the Statement of Issue, during the period February 14 to 27 in the Montreal-Quebec Service, it was so management could obtain the greater productive capacity of the larger car; that in order to circumvent paying dining car rates to the Steward and Chef, whose work load, it was stated, is beyond that of a regular coffee shop car, the Company removed the tables from the four booths in the car and replaced them with ashtray stands that can hold beverage glasses. Thus, the seating arrangement for feeding was reduced from 48 seats to 32. The 16 remaining seats are for bar service only.

It was also claimed that the menu of the converted coffee shop car was as elaborate as that of a regular dining car. Samples of menus were submitted.

These revealed that apart from breads and beverages, the coffee shop car menu listed 18 items, including seven different types of sandwiches, while the menu for the dining car listed 30 items, including 6 a la carte items.

For the Company it was submitted that the overall physical structure of a car used in feeding service is not a factor in determining the classification of feeding cars and thereby the rates to be paid employees manning them. The governing factors in determining the classification of feeding cars are specified in Article 17 and therefore the applicable rates of pay are (1) the seating capacity of the feeding portion of a car and (2) the menu selections.

The position of the Company taken before the Arbitrator was fully outlined in a letter from Mr. T. P. James, Manager of the Company's Sleeping, Dining and Parlor Car Department, under date of March 21,

"Referring to your letter of March 13th concerning the payment of buffet car rates to the steward and chef when assigned to feeding cars in coffee shop service on the Quebec trains, February 14th to 27th.

It is the Company's right and prerogative to rearrange and utilize any of its equipment. including a dining car, to provide coffee shop service.

Article 17 (e) of the Collective Agreement merely spells out what rates of pay are applicable on feeding units offering various types of service and requiring different degrees of skill and experience. The physical structure of the car used to provide feeding service is of no consequence. The governing factors in determining the classification of various feeding cars are seating capacity and menu selections.

In the case at issue, the seats available for meal service in these units were reduced from 48 to 32, which is 4 seats less than the maximum permitted for coffee shop service. The menu featured was a regular coffee shop menu, therefore, there is no justification for your contention that the Company is in violation of Article 17 (e). A similar dispute was previously submitted to Arbitration and was heard by Judge J. C. Anderson on August 28th, 1964. It was found, for the Company, that as the feeding capacity of the unit did not exceed 36, there was not any breach of the Contract. It was further ruled that if there was to be any change in the classifications of the crew providing coffee shop service, and the rate of pay to which they are entitled, this is properly a matter for negotiations and not a matter to be decided by arbitration."

In the judgment of His Honour, Judge J. C. Anderson, to which reference was made, this conclusion was reached:

"I have come to the conclusion that by increasing the number of feeding units to 36 which is allowed by 17 (e) and inserting ten lounge seats where beverages can be served, there has been no breach of the contract. Lounge seats in which beverages may be served and in which passengers may simply wait for service in the Coffee Car, are not, in my opinion, adding to the seating capacity under 17 (e)."

In conclusion, I find that the cars in question were converted in a manner that did not bring them in conflict with Article 17 (e). The total dining seats were 32, 4 seats less than the maximum permitted for coffee shop service.

As to menus, there was actually no contradiction to the claim that those used were regular coffee shop menus, the same that were in effect prior to and after the use of the cars in question. The samples produced, in my opinion, clearly establish the difference in the two types of menus.

For these reasons this claim is denied.

J. A. HANRAHAN
ARBITRATOR