CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 132

Heard at Montreal, Tuesday, November 12th. 1968

Concerning

CANADIAN PACIFIC RAILWAY COMPANY (PACIFIC REGION)

and

BROTHERHOOD OF RAILROAD TRAINMEN

DISPUTE:

Failure to agree on a yard crew consisting of one Foreman ard one Helper on the 8.00K Tramp assignment at Alyth (Calgary).

JOINT STATEMENT OF ISSUE:

Article 9, Clauses (b), (c) and (d) of the Yard Agreement reads:

(b) Should the Company desire to abolish one helper position in any yard or transfer crew on which two helpers are employed in accordance with Clause (a) hereof, the Company shall notify the Local and General Chairman of the Brotherhood in writing of its desire to meet with respect to reaching agreement on a crew consist of one yard foreman and one yard helper. The time and place, which shall be on the Region concerned, for the Company and Brotherhood representatives to meet shall be agreed upon within twenty-one calendar days from the date of such notice and the parties shall meet within thirty calendar days of the date of such notice. It is understood, however, that if the number of cases to be handled at any particular time make the time limits specified herein impractical, on request of either party, the parties shall mutually agree on a practical extension of such time limits.

(c) The determination of whether or not the proposed crew consist reduction shall be made will be limited to and based on maintenance of adequate safety. If the parties do not reach agreement at the meeting referred to in Clause (b) the Company may, by so advising the Local and General Chairman in writing, commence a survey period of five consecutive working days for the yard operations concerned during which Brotherhood Representatives may observe such operations. The survey period shall commence not less than ten and not more than twenty calendar days from the date of the Company's advice with respect to the survey period. The Local and General Chairman shall be advised of the results of the survey.

(d) If, after completion of the survey period, the parties do

not agree on the proposed crew consist reduction, the General Manager may by so advising the General Chairman in writing, refer the dispute to the Canadian Railway Office of Arbitration for determination.

Notice was served on the Local and General Chairman of the Brotherhood of Railroad Trainmen by the Company of its desire to implement a two-man yard crew on thc 8.00K Tramp assignment. A meeting was held in Calgary on March 7th between the Superintendent for the Company and Local Chairman for the Brotherhood at which time no agreement was reached on the proposed crew consist reduction. the survey thereupon required was conducted covering the period April 27th to May 1st inclusive with the Local Chairman observing the operation on behalf of the Brotherhood.

It is the contention of the Company that the survey revealed adequate safety, stipulated in Clause (c) as the determining factor in reducing crew consists, can be maintained on the assignment in question with a crew consist of a yard foreman and one yard helper. The Brotherhood contends that adequate safety can not be maintained on this assignment with a reduced crew consisting of a yard foreman and one yard helper and has declined to agree with the proposed crew consist reduction.

FOR THE EMPLOYEES:	FOR THE COMPANY:
(Sgd.) S. McDONALD	(Sgd.) R. S. ALLISON
GENERAL CHAIRMAN	GENERAL MANAGER - PACIFIC REGION

There appeared on behalf of the Company:

J. G. Benedetti	Supervisor Personnel & Lab. Rel's, CPR Vancouver
D. G. Stewart	Assistant Superintendent, CPR, Calgary
R. W. Stuckert	Acting Asst. Superintendent, CPR, Calgary
M. Stroick	General Yardmaster, CPR, Calgary
J. Ramage	Manager, Labour Relations, CPR, Montreal

And on behalf of the Brotherhood:

S. McDonald	General Chairman, B. R. T., Calgary
P. P. Burke	Local Chairman, B. R. T., Calgary

AWARD OF THE ARBITRATOR

The company seeks the reduction of the three-man crew heretofore used on the assignment referred to, to a two-man crew. The issue to be determined is whether the assignment can be carried out by a reduced crew with maintenance of adequate safety. The parties have agreed by article 9 (a) of the collective agreement that in general yard crews shall consist of a foreman and two helpers. Provision is made for requests by the company that reduced crews be used, and it is such a request which is before me in this case. It may be noted that there is no suggestion of any material change of circumstances which has

given rise to the request It is for the company to demonstrate that the proposed reduction can be made with maintenance of adequate safety. In this connection reference may be made to the general remarks set out in cases 130 and 131.

The assignment with which I am concerned here commences and completes work on Saturdays at the Industrial Yard Office, and on the other four days of the working week works out of Alyth under the supervision of the Train Co-Ordinator. The tour of duty on Saturdays involves taking cars from the industrial yard to the Mayland and Meridian Industrial Parks for spotting, doing the necessary switching in the area, and moving cars from these industrial parks to the Industrial Yard. The rest of the week involves moves in the Alyth Yard at various industrial sidings in the area.

The surveys made pursuant to article 9 (c) are before me, and indicate that the three-man crew was properly utilized for the work in question. On three of the five days considered, it was necessary for the crew to work overtime.

There are a number of features in this assignment which would seem to call for a full crew. The approach to the Mayland-Meridian industrial area is on a steep grade, on which extra work may be required. There are a number of public crossings, both in the Mayland-Meridian area, and in the other area in which this assignment work; many of the crossings are without automatic warning signals. In many cases, cars must be moved in and out of buildings, and a third man is often needed for relaying signals, opening gates, and the like. There are a number of curves, on which problems of visibility occur.

While it was not suggested that the three-man crew was not properly deployed, the compary did argue that in many cases the same work could be safely performed by a two-man crew, differently positioned. In some cases this would no doubt be possible, but there are a number of variable factors. In certain cases, for example, the company argued that a second man could ride high on one of the cars, and that only one man on the ground would be necessary. Certain types of car, however - and their number would appear to be increasing - do not permit a rider on top. Thus the company's argument lacks general application. There are of course other variable factors, such as availability or utilization of track, and weather conditions, which might affect the requirement for personnel on certain movements.

The question whether the assignment could be performed by a two-man crew with maintenance of safety is a difficult one, and my conclusion thereon is certainly not free from doubt. As I have suggested in cases 130 and 131, the onus is upon the company, in cases such as this, to establish its case, and eacb case must be determined on its own facts.

Having regard to all of the material before me, and the particular circumstances of this assignment, I am not persuaded that adequate safety can be maintained on this assignment with a crew consisting only of a yard foreman and one yard helper. Accordingly, the company's request must be denied.

J. F. W. WEATHERILL
ARBITRATOR