CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 148

Heard at Montreal, Tuesday, May 13th, 1969

Concerning

CANADIAN PACIFIC RAILWAY COMPANY (PRAIRIE REGION)

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

EX PARTE

DISPUTE:

Deduction of 27 miles from pay claim of Engineer E. P. Hughes, Saskatoon, Saskatchewan, for service performed June 24th, 1968.

EMPLOYEES' STATEMENT OF ISSUE:

On June 24th, 1968, Engineer E. P. Hughes worked in turn around service between Sutherland and Cheviot on the Sutherland Subdivision. He also performed service on a spur line claiming 27 miles for this service under Article 14 of the Collective Agreement. This 27 miles was deducted by the Company. The Brotherhood contends that the claim was in order and requested restoration of the miles deducted. The Company declined this request.

FOR THE EMPLOYEES:

(Sgd.) M. H. TETLOCK
GENERAL CHAIRMAN

There appeared on behalf of the Company:

P. A. Maltby	Supervisor Labour Relations, C.P.R. Winnipeg
C. F. Parkinson	Labour Relations Assistant, C.P.R. Montreal
J. B. Chabot	Labour Relations Assistant, C.P.R. Montreal

And on behalf of the Brotherhood:

M. H. Tetlock	General Chairman, B. L. E., Winnipeg
E. C. Machin	General Chairman, B. L. E. Montreal

AWARD OF THE ARBITRATOR

The facts are not in dispute. On June 24, 1968, Engineer Hughes operated in short turn-around service on the Sutherland Subdivision. His trip was from Sutherland to Cheviot and return, a total distance on the main line of 21 miles. During the course of this trip it was necessary to run off the main line at Cheviot, on the Potasco Spur, to service an industry located on the spur at a distance of four

miles from the main line. He spent two hours and ten minutes on the industrial spur, and this time was equivalent to 27 miles. His total time on duty was four hours and forty-five minutes.

The material provisions of the collective agreement are as follows:

"2 (a) Basis of a day in passenger service; 100 miles or less, 5 hours or less, shall constitute a minimum day in passenger service except as otherwise specified herein.

2 (c) Road engineer in short run passenger and freight service making less than 100 miles will be paid for 100 miles, but will be liable for further service to the extent of 8 consecutive hours, at the rate of one hour for each 12 1/2 miles, 12 1/2 miles to count as one hour's service.

2 (d) In short turn-around service between terminals and turn-around points, miles and junction switching combined or hours, whichever is the greater, will be paid on each leg of the run; all time from arrival at turn-around point to departure and all time at final terminals, from the time of making the first stop, until 15 minutes after the engine is placed on shop track will be paid on tbe minute basis. A minimum of 100 miles will be allowed.

All time at terminals before commencement of trip will be paid, in addition to the guaranteed mileage.

Engineer will not be used out of initial point after completing a day of 100 miles or after having been on duty eight hours computed from the time of departure from the outer main track switch or designated point on the initial trip, except as a new day.

2 (e) Road engineer required to perform a combination of more than one class of road service during the same trip will be paid at the rate and according to the rules governing each class of service for the time or miles engaged in each, but will be paid for the entire trip not less than a minimum day at the highest rate applying for any class of service performed during the trip.

"Article 14 - Running Off Main Line:

Mileage or hours made when engine is run more than one mile off main line will be added to mileage of trip."

Engineer Hughes claimed payment for 12 1/2 miles in respect of the day, calculated as follows:

Preparatory time at Sutherland	3 miles
Initial terminal time at Sutherland	12 miles
Minimum day	100 miles
Running off main line	27 miles

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142 miles

The company has disallowed that part of the claim for "running off main line". It is agreed that Engineer Hughes is entitled to be paid for preparatory time and initial terminal time pursuant to the second paragraph of Article 2 (d). The company contends, however, that the mileage calculated for "running off main line" may be considered together with the regular mileage run in determining whether the minimum day payment is to be made.

The union argues that by Article 14, payment for mileage off the main line, (such as the 27 miles allowed for the grievor's time on the Potasco Spur) is to be added to any other payment an employee may receive. In my view the language of Article 14 and the other material portions of the agreement does not support this argument. Article 14 quite plainly provides that mileage run off the main line (and in the instant case there was the equivalent of 27 miles run off the main line) is to be added to the mileage of the trip. In the instant case the mileage of the trip was 21 miles. The total mileage to be paid, then, was 48 miles. Since payment is to be made for a minimum of 100 miles, tbe grievor was entitled to be paid for 100 miles on this occasion, and he was in fact so paid.

Article 14, it may be noted, provides that the miles made when the engine is run off the main line "will be added to mileage of trip". This may be contrasted with the provision in the second paragraph of Article 2(d), by which payment for terminal time is "in addition to the guaranteed mileage". The guaranteed mileage is 100 miles, and the payment for terminal time is in addition to that. The "mileage of trip", however, was only 21 miles, and by Article 14, that is the amount to which the mileage off the main line is to be added. It may be noted as well that Article 2(e) contemplates that a minimun day's payment is to be paid having regard to the actual mileage of "the entire trip" where more than one class of road service is to be performed.

A similar issue arose in Canadian Railway Office of Arbitration Case No. 9. There the company had counted the time of trainmen held for work train service in making up the minimum day. The provision for payment for such time did not indicate that the payment was to be in addition to the minimum, and it was held that the collective agreement did not support the union's claim. That decision, in my respectful opinion, was correct. There is nothing to support a contradictory decision in the instant case.

In my view the mileage allowed for running off the main line is to be added to the trip mileage and the proper payment made for the total. The company has done that in the instant case. Accordingly, the grievance must be dismissed.

J. F. W. WEATHERILL
ARBITRATOR