CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 179

Heard at Montreal, Tuesday, October 14th, 1969

Concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Claim of Engineer R. A. Sorel for time involved on the Sawyerville Subdivision during a tour of duty in wayfreight service between Megantic and Farnham.

JOINT STATEMENT OF ISSUE:

On February 11th, 1969, Engineer R.A. Sorel was the engineer on Westward Extra 8485 from Megantic to Farnham.

Enroute Engineer Sorel was required to make a side trip of 6.7 miles from Cookshire on the Megantic Subdivision to Sawyerville on the Sawyerville Subdivision. The Sawyerville Subdivision projects from the Megantic Subdivision at Cookshire which is located 42.7 miles west of Megantic, the eastern terminal of the Megantic Subdivision. The distance between Cookshire and Sawyerville and return on the Sawyerville Subdivision is 13 miles.

The time occupied by Engineer Sorel in making the side trip Cookshire to Sawyerville and return was 2 hours and 5 minutes.

Engineer Sorel submitted a claim for 2 hours and 5 minutes - 26 miles in respect of the total time occupied in making the side trip on the Sawyerville Subdivision under the provisions of Article 14 of the Collective Agreement.

Payment of the 26 miles claimed was declined by the Company and instead payment of 13 miles, actual miles run on the Sawyerville Subdivision was allowed on the grounds that Article 14 - "Running off Main Track" does not apply to side trips on branchline subdivisions.

Article 14 - 'Running off Main Track' reads:

> 'Mileage or hours made, whichever is the greater, when engine is run more than one mile off main track will be added to mileage of trip.'

FOR THE EMPLOYEES:

(SGD.) E. C. MACHIN

FOR THE COMPANY:

(SGD.) A. M HAND

GENERAL CHAIRMAN — REGIONAL MANAGER, OPERATION AND MAINTENANCE

There appeared on behalf of the Company:

J. Ramage	Special Representative, Industrial Relations, C.P.R., Montreal
C. E. Moore	Supervisor Personnel ? Labour Relations, C.P.R. Montreal

And on behalf of the Brotherhood:

E. C. Machin	General Chairman, B. L. E. Montreal
R. Sorel	Local Chairman, B. L. E., Farnham, Que.

AWARD OF THE ARBITRATOR

There is no dispute as to the facts, which are set out in the joint statement of issue. The only question is whether article 14 applies in the circumstances of this case. In particular, the question is whether the side trip from Cookshire to Sawyerville was a run "off main track". If it was such, then since it was a run of more than one mile, the grievor would have been entitled to add the greater of the mileage or the hours involved to the mileage of his trip. In this case, it would be to his advantage to add hours run. The company takes the position that article 14 does not apply, and that it was correct in adding to the trip mileage only the amount of mileage run on the Sawyerville Subdivision.

"Main track" is defined in the Uniform Code of Operating Rules as follows:

> "A track extending through yards and between stations, upon which trains are operated by timetable or train order, or both, or the use of which is governed by block signals, interlocking signals, or other method of control."

By this definition, the track from Cookshire to Sawyerville, on the Sawyerville Subdivision, was "main track". Article 14, it is to be noted, does not refer to "side trips" in general but to "running off main track", and it would seem that the entire trip in this case was run on main track.

lt was argued by the union, however, that the definition in the Uniform Code of Operating Rules does not apply, and that "main track" as used in article 14 refers to the tracks normally used in a tour of duty between two main terminals. In this sense, the side trip in question could be said to be run off the main track, in that it was a divergence from it. It is the company's position that article 14 relates only to side trips on spur tracks. A spur track is not defined in the Uniform Code, but it is a track projecting from main track, and used to service industries located on the spur trackage. It is not designated as a subdivision. The side trip from Cookshire to Sawyerville was not on a spur track, but was on the "main track" of the Sawyerville Subdivision.

While the side trip might be thought to be of the same nature whether run on a branch line (or on a separate subdivision, as in this case) or on a spur track, this is not necessarily the case. There would appear to be a difference in branch line operations generally and in spur track operations. It may be noted in this connection that a similar provision to article 14 in the collective agreement governing Trainmen in Western Canada, contains the following qualification:

> "A side trip on a branch line shown in the timetable as a subdivision does not constitute running off the main track."

That qualification is set out in a separate collective agreement and its absence from the agreement now before me does not establish that it was the intention of these parties that a side trip on a subdivision did constitute running off the main track.

Article 14 has been included in the collective agreements in effect between the parties for many years. Throughout most of this period, it did not permit employees the advantage of being paid the greater of mileage or hours made, but simply provided (with some differences in wording not here material) for the adding to the mileage of the trip, that mileage run more than one mile off main track. It seems clear from the material before me that the former provisions were not applied in cases of side trips on subdivision branch lines. The provision became effective in its present form on February 1, 1959. The only change in the provision was to permit the employee to be paid for the greater of hours or mileage. There was no change in the conditions on which such payment would be made. I can see no reason to conclude that the provision in its present form was meant to have any different application from that which it has had for many years. The only change is in the amount of the payment which may be claimed.

The union relies particularly on a letter dated July 7, 1960, sent to the General Chairman of the union by the Assistant Manager, Labour Relations in response to an inquiry by the General Chairman. The Assistant Manager's letter indicates his view that the amendment of the rule was made in the light of "changing conditions involving the running of short distances on branches as well, where there is practically no other service". It appears that as a result of the views expressed in this letter, some claims such as that now asserted have been paid. It may be that in some circumstances there is no real difference between branch line subdivision operations and spur track operation that is, that a branch line is used as a spur track. The argument might then be advanced that, in fairness, employees should be paid on the same basis in each case. This is, however, a matter for negotiation between the parties, and would depend upon the parties' own assessment of the facts known to them. The opinion of the Assistant Manager cannot change the wording of the collective agreement, and it is the collective agreement with which I must deal.

Since, as I have indicated, the provisions of the agreement relating to the circumstances in which article 14 applies have not changed materially, it is my view that it must continue to be applied as it had in the past. This application is consistent with the definition of "main track" set out in the Uniform Code, and recognizes the distinction between spur track and subdivision lines.

For the foregoing reasons, the grievance must be dismissed.

J. F. W. WEATHERILL
ARBITRATOR