

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 236

Heard at Montreal, Wednesday, September 9th, 1970

Concerning

ONTARIO NORTHLAND RAILWAY

And

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Claim of Engineman E. Moulder for 100 miles switching on arrival at North Bay on November 25, 1969.

JOINT STATEMENT OF ISSUE:

Engineman E. Moulder operating train 208 arriving North Bay November 25, 1969 found when pulling into No. 5 track to yard his train that there was one car occupying the track.

He was instructed to push the car through track No. 5 and, when backing through track No. 20 on his way to the shops, to leave the car in track No. 20.

Engineman Moulder submitted a claim for an additional 100 miles under Article 2.14 of the agreement.

The Company declined payment of the claim.

FOR THE EMPLOYEES:

(SGD.) E. G. SYKES  
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) E. A. FRITH  
GENERAL MANAGER

There appeared on behalf of the Company:

A. Rotondo	Employee Relations Assistant, O.N.R., North Bay
R. O. Beatty	Assistant Superintendent Train Operations, O.N.R.

And on behalf of the Brotherhood:

W. J. Wright	Assistant Grand Chief Engineer, B. L. E., Montreal
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AWARD OF THE ARBITRATOR

Article 2.14 of the collective agreement provides as follows:

"2.14 - Release at Final Terminal.

Where yard engines are on duty engineers will be considered released from duty on arrival at objective terminals after yarding their train in a minimum number of tracks, including putting their caboose away if necessary, except that they may be required to perform switching in connection with their own train to set off and if necessary spot important or bad order cars. To accomplish this work they may be required to respot other equipment involved in performing this service. Should they be required to perform other work when yard engines are on duty or to make short runs out of the terminal they will be paid a minimum of 100 miles for such service. Where no yard engine is on duty road engineers will do yard switching and will be considered as in continuous service."

There is no doubt in this case that a yard engine was on duty and that engineman Moulder had arrived at his objective terminal. The provisions of article 2.14 undoubtedly apply. Engineman Moulder did yard his train, on track number 5, and proceeded to the shops via track number 20. In order to yard his train on track number 5, it was necessary for him, on instructions, to remove one car which was in that track, and which had been inadvertently left there by the yard crew whose duty it had been to clear the track. This car, it is clear, was not a part of engineman Moulder's train. The proviso in article 2.14 is that enginemen "may be required to perform switching in connection with their own train to set off and if necessary spot important or bad order cars". The work in question here did not fall within that part of the proviso. The proviso goes on, however, to say that "To accomplish this work they may be required to respot other equipment involved in performing this service". The phrase "other equipment" can only mean in this context, equipment other than that forming part of the engineman's own train. It was obviously necessary that this obstacle be removed, and in my view the removal of the single car from track 5 was properly required of engineman Moulder, and the time so spent properly included in the final terminal time for which he was paid pursuant to article 2.13. It was a case of respotting other equipment, for the purpose of accomplishing the proper work of yarding his train. The reference in the last sentence of article 2.14 to "other work" is a reference to work other than that previously dealt with in the article, and would include work such as that done here, which in the normal course is obviously yardmen's work. This is not to say that engineman Moulder could have been required to perform any substantial job of switching other cars in the yard, on the pretext that he was merely preparing to yard his own train. Here, he simply pushed an inadvertently misplaced car to the nearest point out of his way, and left it there. This decision does not go beyond these particular facts.

Accordingly, it must be concluded that the work in question comes within the contemplation of article 2.14 and was proper. The grievance must therefore be dismissed.

J. F. W. WEATHERILL  
ARBITRATOR