CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 306

Heard at Montreal, Wednesday, September 15th, 1971

Concerning

CANADIAN PACIFIC RAILWAY COMPANY (PRAIRIE REGION)

and

UNITED TRANSPORTATION UNION (T)

EXPARTE

DISPUTE:

Claims of various Moose Jaw crews for the payment under work train service conditions when required to work on the Indian Head Subdivision between October 8th and 24th, 1970.

EMPLOYEES' STATEMENT OF ISSUE:

This work train service was an assigned work train which Was placed into service on October 8th, 1970, prior to the closing of the bulletin on October 12th, 1970. During the five day period, the work train service was worked out of the East Freight Pool at Moose Jaw by unassigned crews and subsequently by the assigned crew. Crews were called at Moose Jaw each day and ran to Regina where they picked up work equipment and work crew to be used in performing the work service of unloading dirt for bank widening east of Regina on the Indian Head Subdivision. The work equipment, a spreader, and work crew were set off each night at Regina with work train service crew running with empty cars to Moose Jaw where they were tied up.

The work train crews claimed initial time at Moose Jaw, running miles from Moose Jaw to Regina, time in work train service from arrival at Regina until completion of the work for the day and departure from Regina, running miles from Regina to Moose Jaw and final terminal time at Moose Jaw. The Company has contended the working point on each day was east of Regina but for consistency, recognized Kearney as the initial and final working points.

The Union contends that Regina was the initial and final working points when it became necessary to lift and set off work equipment incidental to the work train service to be performed as well as the work crew which performed the work. The Union contends the Company has misinterpreted Article 20 clause (b), Paragraphs (1) and (3) which read:

"ARTICLE 20 - WORK TRAIN SERVICE

(b) 1st Paragraph

Actual mileage, initial and final time including switching,

and overtime, will be paid at through freight rates when going to or from work, and this will not be included in time or mileage paid for at work.

3rd Paragraph

Actual mileage going to and from work as specified in this clause means mileage run at the beginning of the day from the tie-up point to the first point of work and mileage run at the end of the day from the last working point to the tie-up point. Such working points are the respective locations where maintenance or betterment work, wrecking train, snowplowing or spreader service is being or is to be performed on the Company's facilities or right of way. Mileage to work will commence at the point where initial time ends and mileage from work will end at the point where final time begins.

FOR THE EMPLOYEES:

(SGD.) R. T. O'BRIEN
GENERAL CHAIRMAN, U.T.U.

There appeared on behalf of the Company:

P. A. Maltby	Supervisor Labour Relations, C.P.R., Winnipeg
J. Ramage	Special Representative, C.P.R., Montreal
D. D. Wilson	Labour Relations Officer, C.P.R., Montreal

And on behalf of the Brotherhood:

R. T. O'Brien	General Chairman, U.T.U.(T)	Calgary

AWARD OF THE ARBITRATOR

The crews in question came on duty and were released from duty each day at Moose Jaw, which was the tie-up point. Each day, en route to the first working point, they had to stop at Regina to pick up the spreader, and certain maintenance of way employees, and at the end of each day they stopped at Regina to set off the spreader and the employees. The grievors' claim is that Regina was the first point of work and the last point of work each day.

The question is simply one of the application of the definitions set out in the third paragraph of article 20(b). "Working points" are defined as "the respective locations where maintenance or betterment work, wrecking train, snowplowing or spreader service is being or is to be performed on the Company's facilities or right of way". Was Regina such a point, at the material times? The work done at Regina was the picking up and setting off of equipment and crew. It was not the performance of any of the sorts of work referred to in article 20(b). In particular, while a spreader was picked up and set off, no spreader service as such was performed or to be performed at Regina.

The real "working point" was along the track east of Regina, where certain bank-widening operations were being carried on.

"Work service" is defined in the first paragraph of article 20(c) as "service performed in connection with Maintenance, Construction, Betterment, Wrecking train service, Snow Plow, Flanger and Spreader Service." Now the whole purpose of the crews' operations in the days in question was to enable work service to be carried out. Even when they left Moose Jaw they were performing work which was, in a sense, "in oonnection with" spreader service. But clearly article 20 does not contemplate their being considered as at the "working point" until they have reached the point where the work in fact oonmences. Picking up equipment or crews to perform work is not the same thing as the performance of the work itself. It is noteworthy that in article 20(c) there is set out one special case where, it would seem, work train service is considered as being carried on even though the working point may not have been reached: that is in the case of "loading scrap in connection with the handling of Company's supply cars", and it is a different sort of matter from the picking up and setting off of equipment and crews, which must be a frequent incident of any work train assignment. Again, in article 20(b), it is specifically provided that "Ballast pit will be considered as working point only for crews who work exclusively in such pit". Evidently, a ballast pit would have a more substantial claim to be considered as a working point than would a yard where equipment or crews are picked up. And yet even the ballast pit is a working point only for those actually working there. In my view, having regard to the clear provision of article 20, it simply cannot properly be said that Regina was the first and last point of work in the circumstances of this case. The difficulties the parties may have experienced in identifying with precision the working point are different matters. The decision in this case must simply be that Regina was not such a point.

For the foregoing reasons, the grievance must be dismissed.

J. F. W. WEATHERILL
ARBITRATOR