CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 332

Heard at Montreal, Tuesday, January 11th, 1972

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION (T)

DISPUTE:

Alleged Violation of Article 153 of Agreement 4.16 when home terminal was changed for certain assignments.

JOINT STATEMENT OF ISSUE:

Effective January 4, 1971 the home terminal and Sunday layover of the assignment handling wayfreight trains Nos. 729-730 between Stratford an Owen Sound was changed from Owen Sound to Stratford.

The General Chairman submitted a grievance contending that Article 153, Section 1, Rule (a) of Agreement 4.16 had been violated by the Company when it changed the home terminal of the assignment.

Similar grievance was submitted when the home terminal for assignments handling trains Nos. 772 and 774 was changed from London to Ingersoll effective at the Fall change of timetable, Sunday, October 25, 1970.

In both instances the grievance was declined by the Company.

FOR THE EMPLOYEES:	FOR THE COMPANY:
(SGD.) G. R. ASHMAN GENERAL CHAIRMAN	(SGD.) K. L. CRUMP ASSISTANT VICE-PRESIDENT - LABOUR RELATIONS

There appeared on behalf of the Company.

A. J. DelTorto	System Labour Relations Officer, C.N.R., Montreal
M. A. Matheson	Labour Relations Assistant, C.N.R., Montreal
L. I. Brisbin	Assistant Superintendent, C.N.R., London

And on behalf of the Brotherhood..

G. R. Ashman	General Chairman, U.T.U.(T), Toronto

J. B. Meagher	Vice Chairman, General Committee, U.T.U.(T), Belleville
F. R. Oliver	Secretary, General Committee, U.T.U.(T), Toronto
J. Vaughn	Local Chairman, U.T.U. (T), Toronto

AWARD OF THE ARBlTRATOR

Article 153, Section 1, rule (a) of the collective agreement is as follows:

> "(a) The Company will not initiate any material change in working conditions which will have materially adverse effects on employees without giving as much advance notice as possible to the General Chairman concerned, along with a full de- scription thereof and with appropriate details as to the contemplated effects upon employees concerned. No material change will be made until agreement is reached or a decision has been rendered in accordance with the provisions of Section 1 of this article."

There are two situations involved in this grievance, but they are similar in nature and the same reasoning applies to each. It must first be determined whether what was done constituted a "material change" having "materially adverse effects on employees", but while there may be some difficulties with respect to this language, I propose to leave the matter to one side, since the case may be dealt with on other grounds.

It is the Company's position that, assu?ing there was a material change within the meaning of Section 1 (a) of Article 153, the article does not apply in the circumstances because the case comes within rule (1) of Section 1. That rule is as follows:

> "(1) This Article does not apply in respect of changes brought about by the normal application of the collective agreement, changes resulting from a decline in business activity, fluctuations in traffic, traditional reassign- ment ?f work or other normal changes inherent in the nature of the work in which employees are engaged."

It was argued that this was a normal change inherent in the nature of the work in which employees are engaged. In my view, this argument is correct. The collective agreement contemplates the bulletining of each assignment at certain stated intervals and in cases of changes, as provided for in Article 76 and Article 131. These are changes contemplated by the agreement as part of the course oi regular operations, and as such should, in my view, be regarded as normal. It should be clear from the nature of "normal changes" referred to in Article 153 (T) (1), that they need not be everyday occurrences. Changes such as those in question do occur from time to time and are, in my view, inherent in the nature of the work in which employees are engaged.

For these reasons, the case comes within rule (1) of Section (I) of

Article 153, and the article accordingly does not apply.

The grievance must therefore be dismissed.

J. F. W. WEATHERILL
ARBITRATOR