

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 345

Heard at Montreal, Tuesday, March 14, 1972

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION (T)

EXPARTE

DISPUTE:

Consist of Yard Crews - North Bay, Ontario.

COMPANY'S STATEMENT OF ISSUE:

Inability of the United Transportation Union to agree with the Company that adequate safety can be maintained with a reduced consist of one Yard Foreman and one Yard Helper for crews working at North Bay, Ontario.

FOR THE COMPANY:

(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.H., Montreal
D. E. Christensen	-	System Transportation Officer, C.N.R., Montreal
H. V. Mann	-	System Rules & Time Service Officer, C.N.R., Montreal
R. S. Mackay	-	Transportation Officer, C. N. R., Toronto
L. W. Metcalf	-	Assistant Superintendent, C.N.R., Capreol
H. C. Heinrichs	-	Engineer of Surveys & Construction, Capreol, C.N.R.

And on behalf of the Brotherhood:

G. R. Ashman	-	General Chairman, U. T. U. (T) - Toronto
F. Oliver	-	Secretary, General Committee, U.T.U.(T) - Toronto
N. Parks	-	Local Representative, U.T.U.(T) - North

Bay

AWARD OF THE ARBITRATOR

The company seeks to reduce the size of yard crews working at North Bay from a consist of one yard foreman and two yard helpers to a consist of one yard foreman and one yard helper. The collective agreement provides for the company to give notice to the union of its request for such a reduction, and, where the parties cannot agree, for arbitration by the Canadian Railway Office of Arbitration, the issue being limited to whether or not adequate safety can be maintained with the proposed crew consist reduction.

The agreement requires that if, after the completion of a survey, the parties do not agree that adequate safety can be maintained with the proposed crew consist reduction, the union is to give specific reasons in writing why, in their opinion, adequate safety cannot be maintained. The matter is then to be determined having regard to these specific moves as well as certain general considerations which may affect the matter. In the instant case, apart from certain general observations with respect to the proposed reduction, the union set out the following specific reasons for their objection (I have combined the detailed objections so as to refer to the particular areas of the yard involved):

1. In one area there are some seven crossings within a distance of one-half mile. In some cases, two crossings at a time are occupied. Traffic is heavy and some of the crossings are unprotected. There are a number of trespassers on and about the tracks at that point, many of them schoolchildren.
2. In the area of the Transfer Yard and the O.N.R. Yard, Rule 12 of the Uniform Code of Operating Rules could not be complied with because of the great number of cars handled in these tracks, and the curvature of the tracks.

At the hearing, the union referred to other aspects of the yard assignment where, it was alleged, adequate safety could not be maintained with a reduced crew. These included switching in the area of the Johns Manville plant and the DuPont explosives plant. These aspects of the assignment had not previously been put in issue, and under the arrangements with respect to these cases which the parties have made, it would be wrong for me to consider them. In other cases of this sort it has been my practice to consider representations of a general nature relating to the overall safety of an operation even where these have not been raised by way of specific allegations as required by the agreement. In my view, in a matter of this sort, a broad interpretation of the issue should be taken, and material considerations should not be put aside on technical grounds. But the provisions of the collective agreement relating to the specification of moves which allegedly cannot be made safely are not mere technicalities; they are provisions to which the parties agreed, and

by which they and the arbitrator are bound, which permit identification and consideration of specific issues. Where an issue has not been so identified, then it is not, under the provisions of this collective agreement, an issue before the arbitrator. It would, then, in this case, be improper for me to have regard to the circumstances relating to switching in the area of the Johns Manville or DuPont plants.

As to the first ground of objection referred to above, it is true that there are a number of crossings just to the west of the storage track D O 1. Three of these crossings are protected by flashing lights and bells, and the rest by standard reflectorized crossing signs. While it may be that under the rules manual flagging protection is not required, adequate safety would require, particularly in this area, that the point of the movement be particularly closely controlled, and of course the rules would require that in movements not headed by an engine a member of the crew be on the leading car. This requirement must be met regardless of the size of the crew. In the case of a reduced crew, the effect of this requirement would be to reduce somewhat the flexibility with which the crew might be deployed. It does not appear that from the point of view of control of train movements a reduced crew would have any difficulty in this area. The particular attention which may have to be paid by reason of the number of crossings and the presence of trespassers, including children, would not, in my view, affect the handling of the movement in any significant way. In my view, the assignment may be carried out in this area by a reduced crew with maintenance of adequate safety.

The second ground of objection relates to the difficulty of maintaining sight-lines in the Transfer Yard and O.N.R. Yard. In determining this question, I have considered the material presented at the hearing and, as well, I took a view of the areas in question with the consent of the parties and in the presence of their representatives. The assignment in question operates for the most part on certain interchange tracks at the east end of the O.N.R. Yard, approached by a sharply curved track from the transfer yard to the north. The difficulty, in my view, is in maintaining sight lines on the approach from the north to the O.N.R. Yard. Wherever cars are being placed on tracks in the O.N.R. Yard the movement is a pushing movement, and the engineman will of course require the signals of the yard crew in order to proceed. Pulling movements out of the O.N.R. Yard present no difficulty.

In pushing movements along the north-south track, B-36, because of the curvature of the track, and the growth of trees and bushes on the right of way, there are certain natural limits to the sight lines which can be maintained. Recognizing this, the company proposes a twelve-car limit on pushing movements on this track handled by a two-man crew. In my view, these movements can be handled safely by a two-man crew. When one man is on the point of the movement and another on the sixth car, signals may be passed to the engineman without difficulty. As the movement approaches the O.N.R. Yard, it may be that difficulties would arise, particularly in adverse weather conditions, due to the occupation of tracks and the operations of O.N.R. crews. Given the limitations on the number of cars pushed into the O.N.R. Yard, however, it is my view that such movements can

be handled safely by a two-man crew. Where extreme situations arise, compliance with the Uniform Code of Operating Rules results in the maintenance of safety, however much efficiency may be affected in such circumstances. Similar considerations apply with respect to the switching necessary at the crossover at the end of the transfer yard.

Having regard to all of the circumstances, it is my view that the assignments in question may be handled by two-man crews with maintenance of adequate safety. As has been pointed out in earlier cases, loss of efficiency resulting in some cases from the reduction in crew size is something the company must be prepared to bear. It is my award that the request of the company be allowed.

J. F. W. WEATHERILL
ARBITRATOR