CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 397

Heard at Montreal, Tuesday, February 13th, 1973

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION (T)

EXPARTE

DISPUTE:

Consist of Crews - "Super Continental" Passenger Trains, between Winnipeg and Edmonton.

COMPANY'S STATEMENT OF ISSUE:

The Company has proposed that the crew consist of the "Super Continental'' passenger trains operating between Edmonton, Alberta and Winnipeg Manitoba, be reduced by one Brakeman.

The Union is unable to agree with the Company that adequate safety can be maintained with the proposed crew consist reduction, and that such reduction will not result in undue burden being placed on the reduced crew.

FOR THE COMPANY:

(SGD.) G. H. BLOOMFIELD
ASSISTANT VICE-PRESIDENT -
LABOUR RELATIONS

There appeared on behalf of the Company:

A. J. DelTorto	System Labour Relations Officer, C.N.R., Montreal
D. E. Christensen	System Transportation Officer, C.N.R., Montreal
J. R. Thompson	Assistant Manager of Rules, C.N.R., Montreal
J. F. Munsey	Superintendent Transportatlon, C.N.R. Edmonton
H. O. Gosselin	Trainmaster, C.N.R., Winnipeg
J. A. Cameron	Labour Relations Assistant, C.N.R., Montreal

And on behalf of the Brotherhood:

H. R. Burnett	General Chairman, U.T.U.(T) - Winnipeg

G. C. Gale	Vice President, U.T.U.(T) - Winnipeg
W. Archibald	Local Chairman, Lo. 1874, U.T.U.(T) - Winnipeg
G. W. McDevitt	Vice President, U.T.U.(T) - Ottawa

AWARD OF THE ARBITRATOR

In this case, the company seeks the determination that it may reduce by one brakeman the crew consist of the "Super Continental" passenger trains operating between Edmonton and Winnipeg.

Under the material provisions of the collective agreement now in effect, a procedure is set out for determining whether train crew consists may be reduced, and certain provisions are made for the protection of trainmen affected when any such reduction is implemented. At present, the train crew consist for the trains in question is one conductor, one baggageman and two brakemen. Under the applicable provisions of the collective agreement, the crew may be reduced provided it is established that adequate safety can be maintained with the proposed crew consist reduction and that such reduction will not place an undue burden on the reduced crew.

The procedure with respect to the determination whether the reduction may properly be made has been followed. The assignment has been surveyed and the union has set out certain reasons why in its opinion the reduction should not be made. These related both to the issue of safety and to that of undue burden. These reasons, as well as certain general matters relating to the assignments in question have been considered by me in making this award.

The trains in question were, at the time of the survey, of some twenty to twenty-two cars, including three day coaches. On some occasions a fourth coach may be added. In addition to the train crew whose size is in issue here, the trains carry an engine crew consisting of an engineer and fireman, and various sleeping and dining car employees including a sleeping car conductor, porters, waiters and others. Provision of passenger services in all cars except the day coaches is, to a very large extent, the job of the latter group of employees. The train crew, however, does have certain general responsibilities with respect to the safety and proper operation of the train as a whole, although the main burden of their work relates to the day coaches. The baggageman is primarily concerned with the handling of baggage and with the baggage car. While he may, from time to time, be able to lend assistance to the train crew in certain situations, so that the fact of his presence on the train may be taken into account in considering the overall situation of the train crew, his work is largely separate from theirs, and he could not be expected to substitute in any very significant way for one of the brakemen, if the crew size were reduced.

In deciding whether the train crews in question may properly be reduced, I shall have regard primarily to the work of the conductor and brakemen. First, on the question whether a reduction in crew

consist could be made with maintenance of adequate safety, the union advanced six specific reasons why, in its opinion, it could not be done. The first such reason related to the requirement of flag protection in certain situations. Situations calling for flag protection would rarely arise; where one does arise, there is a responsibility on both the train crew and the engine crew to ensure that Rule 102 of the Uniform Code of Operating Rules is complied with. It would be a first responsibility, so to speak, of the conductor, and I cannot agree that the reduction of the number of brakemen by one would significantly affect the ability of the crew to comply with Rule 102, or significantly reduce the safety of the operation.

The second reason advanced by the union related to trains moving off from Winnipeg before passengers were properly seated. Entraining of passengers to day coaches is now, it would seem, supervised by the conductor and one brakeman. Since the company proposes that, if the crew is reduced, entraining of passengers to coaches at major stations will continue to be handled by a conductor and one trainman, it follows that there will be no change in this situation, and that adequate safety can continue to be maintained. In putting forth this reason, the union also referred to the matter of ruDning inspections. This means the observation of the train, from time to time in the course of its operation. Both the engine crew and the train crew are responsible for such overall visual surveys of the movement. It is, as the company points out, neither an onerous nor a time consuming responsibility. The question, I think, goes more to burden than to safety. I think that the remaining crew members can carry out this responsibility in a satisfactory way, and without assuming thereby any undue burden.

The third reason was that it would be unsafe for the conductor to leave the vestibule unattended at certain stops while he was engaged in registering or in housing baggage. There are very few stops at which registering is required, and the process takes very little time. The number of occasions where, at stops of this nature, the baggageman might require assistance and there is no station crew would be slight. On such occasions, the brakeman could lend such assistance or protect the vestibule. In this respect, I see no threat to the maintenance of safety.

The fourth reason relates to passengers standing while trains are moving, particularly while they are moving out over crossovers. No doubt it is safer for passengers that they be seated at such times. There does not appear, however, to be any relation between this and the size of the train crew. The fifth reason relates to passengers moving between cars, and to the possibility in the case of older passengers or children, of their having difficulty with the doors and being trapped in the vestibules. lt must be remembered that the passenger who would have difficulty in pushing open a door into a car - and the doors open inward - must presumably have been able to pull open another door to be in the vestibule in the first place. Passengers will at times require assistance, and the train must be patrolled, but I cannot conclude that the proposed reduction in crew size would significantly affect the maintenance of safety in this respect.

The sixth reason relates to the procedure when a warning is received from a hot box detector. Where such warning is received the car in question must be inspected, but it is not necessary that a member of the crew remain with that car until the matter is dealt with. Inspections will have to be made from time to time, but there is no reason why this could not be satisfactorily carried out by a reduced crew.

Having regard to all of the foregoing, it is my conclusion that a reduced crew could be used on the trains in question, with maintenance of adequate safety.

On the second basic question, whether a reduction in crew size would place an undue burden on the reduced crew, the union advanced eleven reasons why the reduction should not be made. The first such reason related to the unloading of baggage at certain stations where personnel were not available. Such stations are few, and no occasions occurred during the survey period where the baggageman required assistance. If, at such stops, assistance from the conductor or a brakeman were required, it could be provided without increasing the workload to which the crew is now subject.

The second reason related to the tension which a conductor would suffer without the services of a trainman, because of confusion, ticketing and unloading of passengers. In fact, as mentioned above, the company proposes that a conductor and a trainman, in the future as at present, will oversee the entraining and detraining of passengers to and from day coaches. There would be no change in the ticketing responsibilities of the conductor. Accordingly, the burden of work in these respects would not be altered. The third reason is to substantially the same effect as the second, although it must be acknowledged that, in dealing with passengers' queries, both in the coaches and throughout the train, the work of three would now be done by two. This means an increase in the workload, but because of the nature of this part of the job, and the amount of time which could be expected to be involved, it could not be said that such increase would lead to an undue burden on the remaining crew members.

The fourth reason related to the work involved in setting off or picking up cars and in making steam connections or changing barcos. No cars were required to be set off or picked up during the survey period, and it seems that only one car needed to be set off (apart of course from the work performed by yard crews at major terminals) from the trains in question during all of 1970. While it may be doubted that the performance of this work by members of the crew would affect in any way the burden on others, the work is performed so rarely that any effect the reduction of crew size might have could not be said to be undue.

The fifth reason relates to the work of clearing switches in severe winter conditions. To a large extent, the work of trainmen in this respect has been reduced because switches are controlled by a dispatcher, the trains in question operating entirely on C.T.C. territory. A number of switches are kept clear by switch heaters and snow blowers. Despite all this, it does happen that switches must be manually cleared and lined. The task is, it would seem, one which falls to the fireman. If necessary, he may call on members of the

train crew for assistance. Even if the crew were reduced, there would be sufficient personnel available to enable the task to be performed. While there is a somewhat increased likelihood of a train crew member being called on to assist in this, this increase cannot be said to amount to the imposition of an undue burden.

The sixth reason relates to the work of the baggageman and involves the assertion that he would not be available to assist other members of the crew to the extent suggested by the company. As noted above, while the fact of the baggageman's presence may be considered as one of the overall factors involved, he should not be considered as available to take over any significant share of the train crew's work, and I have considered the matter on that basis. Assuming the correctness of the sixth reason, it does not support the conclusion that a reduction in crew size would impose an undue burden on the remaining crew members.

The seventh and eighth reasons relate to the powers of the conductor to investigate and deal with disturbances. To the extent he is taken away from other duties this would affect the pressure of his work, but this would occur as well before as after any reduction in crew size. More serious, I think, is the matter of personal security, the union referring to an incident which occurred outside the survey period when a conductor was assaulted by unruly passengers. It is doubtful if the reduction of the crew size would affect the frequency of such incidents. Obviously, it would reduce by one the number of persons available to come to the other's assistance. As to this sort of situation, it is clear that all other train employees would have an obligation to assist, and it cannot really be said, having regard to the work of the train crew as a whole, that the reduction of the crew would impose an undue burden on the remaining members in this respect.

The ninth reason relates to the operation of heating or air conditioning equipment. Except in the day coaches, operation of such equipment is the responsibility of the employees on the cars concerned, but difficulties come to the attention of the conductor, or, it seems, a trainman. The train crew members are expected to operate the equipment in accordance with instructions, but of course are not expected to make other than superficial repairs. Any extra work falling to the remaining members of the train crew in this respect would not appear, from the material before me, to be substantial or to result in an undue burden.

The tenth reason related to the entraining and detraining of passengers. This matter has been dealt with above. The proposed reduction in crew size would not alter the number of crew members now dealing with this work in the coaches, and would not alter the present burden of such work. The eleventh reason related to the filling in of accident reports by the conductor. This work is required, on an average, some three times per month, and is not substantially time consuming. The question, raised by the union, whether the conductor would be held responsible for matters which occurred elsewhere while he was so engaged is not one which arises in these proceedings, in my view.

On the foregoing, it must be concluded that adequate safety can be

maintained with the proposed crew consist reduction, and that such reduction will not result in undue burden being placed on the reduced crew. As has been said in other cases any reduction in the quality of service provided is not as such, a question as to which I have jurisdiction. Accordingly the company's request must be allowed.

J. F. W. WEATHERILL
ARBITRATOR