

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 643

Heard at Montreal, Tuesday, December 13, 1977

Concerning

CANADIAN PACIFIC LIMITED (CP RAIL)

and

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT  
HANDLERS,  
EXPRESS AND STATION EMPLOYEES

DISPUTE:

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Claim on behalf of Spare Dispatcher G.F. Blagdon for away-from-home expenses.

JOINT STATEMENT OF ISSUE:

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Mr. Blagdon worked as a spare Train Dispatcher at Saint John, N.B. and claimed away-from-home expenses under article 19.03.03 of the Collective Agreement for seven days per week while away from his headquarters at McAdam.

The Company contends that there is no provisions in Article 19.03.03 that contemplate compensation for waiting and travelling time when able to return to headquarters on anyday.

The Brotherhood takes the position that waiting and travelling time is too extensive for the man to take advantage of free transportation offered on passenger trains 40 and 41 to return to his headquarters.

FOR THE EMPLOYEE:

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(SGD.) D. C. DUQUETTE  
GENERAL CHAIRMAN

FOR THE COMPANY:

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R. A. SWANSON (SGD.)  
GENERAL MANAGER, O. & M.

There appeared on behalf of the Company:

M. A. Pinard - Supervisor Labour Relations, CP Rail, Montreal  
M. M. Yorston - Labour Relations Officer, CP Rail, Montreal

And on behalf of the Brotherhood:

D. C. Duquette - General Chairman, B.R.A.C., Montreal

AWARD OF THE ARBITRATOR

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Article 19.03.03 of the collective agreement is as follows:

"If an employee while occupying a Relief or Swing position is unable to return to his headquarters on any day, he shall be granted an expense allowance of \$15.00 for each such day, or in lieu thereof, if an employee desires to travel by his automobile between the work point and his headquarters, he may do so when authorized by the Company Officer in charge in which case he shall be reimbursed at the rate of fifteen cents a mile via the shortest distance with a maximum of \$15.00 for the return trip. If he elects to travel by bus or other Public Transportation he will be allowed the amount of the fare up to the maximum of \$15.00 for the return trip."

This case involves only the first clause of that article. The grievor was, at the material times, occupying a relief or swing position at Saint John, and his headquarters was McAdam. For any day on which he was "unable to return to his headquarters" he would be entitled to the expense allowance referred to. His personal circumstances are irrelevant to the determination of the question.

The claims in issue here relate to the month of July, 1976. During that month the grievor was required to leave his assigned position at McAdam to work as Relief Dispatcher at Saint John. He submitted an account claiming \$15.00 for each day of the month except July 30. Most of this account was accepted, but the claims for \$15.00 in respect of July 10, 11, 21, 22, 28 and 29 were refused. The Company's position is that on July 10, 21 and 28 the grievor was able to return to his headquarters, and that on July 11, 22 and 29 there was no need for him to travel to his assignment, transportation being available on the actual days of the assignment.

As to July 10, that was one of the grievor's days off. He had worked from 1500 to 2300 on July 9, and received the \$15.00 expense allowance for that day. On July 10 he was still in Saint John (away from his headquarters), but transportation to McAdam was available to him departing Saint John at 1950 and arriving McAdam two hours later. When the obvious purpose of Article 19.03.03 is considered (and leaving aside whatever might be the grievor's personal circumstances) it is apparent that while the employee might be able to effect a return to his headquarters by the very end of the calendar day, he was in fact held away from headquarters throughout the working day, when expenses would necessarily be incurred. On a reasonable interpretation of the provision, it is my view that the grievor was entitled to the expense allowance in respect of July 10.

The same considerations apply (although there are variations in the hours worked by the grievor on the preceding shift) with respect to the claims for July 21 and July 28. In those cases as well it is my view that a proper interpretation of Article 19.03.03 requires payment of the expense allowance to be made.

As to July 11, the grievor was on his day off, and had had a day off as well the preceding day, when he could have returned to McAdam. He had to work on July 12, but he could have returned to Saint John on that day on an early train. It was not necessary for him to be in Saint John on July 11, and accordingly he had no entitlement to an expense allowance in respect of that day. The same considerations apply with respect to the claims for July 22

and July 29. On neither of those days was it necessary for the grievor to be in Saint John, and he has no entitlement to an expense allowance for either of them.

Accordingly, the grievance is allowed in part. It is my award that the grievor be paid the sum of \$45.00 forthwith, being the sum of the expense allowances to which he was entitled in respect of July 10, July 21 and July 28, 1976.

J. F. W. WEATHERILL  
ARBITRATOR