CANADlAN RAILWAY OFFlCE OF ARBlTRATION

CASE NO. 718

Heard at Montreal, Tuesday, September 11,1979

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Claim of Locomotive Engineer R.P. Boake, of Melville, Saskatchewan, for 100 miles at minimum through freight rates on August 7, 1978.

JOINT STATEMFNT OF ISSUE:

Locomotive Engineer R.P. Boake was in assigned Work train service with Sunday as rest day. On Monday, August 7th, 1978, a General Holiday, the assignment was not required to work and was cancelled for that day.

Locomotive Engineer Boake submitted two time claims for August 7, 1978. One claim was for General Holiday pay and a second claim for 100 miles at minimum freight rates for Work Train Guarantee.

The Company paid the General Holiday claim as submitted but declined the claim for Work Train Guarantee.

The Brotherhood contends that Paragraph 46.1 of Article 46 of Agreement 1.2 (now Paragraph 2.2 of Article 2) was violated by the Company.

FOR THE EMPLOYEE:	FOR THE COMPANY:
(SGD.) A. J. SPEARE	(SGD.) S. T. COOKE
GENERAL CHAIRMAN	ASSISTANT VICE PRESIDENT - LABOUR RELATIONS

There appeared on behalf of the Company:

K. G. Macdonald	-	Manager Operations Control, C.N.R., Montreal
R. Birch	-	System Labour Relations Officer, C.N.R., Montreal
L. R. Weir	-	System Labour Relations " " ,Mtl.
D. W. Coughlin	-	Labour Relations Assistant, C.N.R., Winnipeg

And on behalf of the Brotherhood..

A. J. Speare	-	General Chairman, B.L.E., Edmonton

AWARD OF THE ARBlTRATOR

The grievor was in assigned work train service, and would normally have worked on Monday, August 7, 1978, had his assignment not been cancelled. The cancellation of the assignment was for the purpose of accommodating the holiday on that day. It was not a situation in which bidding on other positions was open or appropriate. It was simply a holiday on which the grievor was not required to work, and in respect of which he was entitled to (and received) holiday pay.

The grievor claims, in addition to holiday pay, payment pursuant to Article 46.1 of the collective agreement. That article is as follows:

> "46.1 Locomotive Engineers assigned to work train service will be allowed 1 day for each 24 hours so held and not used, whether at or away from home terminal except as otherwise provided in paragraphs 48.1 and 48.2."

Articles 48.1 and 48.2 relate to employees allowed to go home on Saturdays and Sundays, and do not apply here. If the case is governed by Article 46.1 generally then, it does not come within the exceptions.

It is my view, however, that this is not a case to which Article 46.1 applies. The grievor, in the circumstances was not "held and not used". He had a holiday, for which he was paid, as contemplated by the collective agreement, and thus had earnings in respect of that day. He was not required to work nor to hold himself available for service. In my view, therefore, this was not a case in which there was any basis for a claim under Article 46.1. Accordingly, the grievance must be dismissed.

J. F. W. WEATHERILL
ARBlTRATOR