CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 780

Heard at Montreal, Wednesday, October 15, 1980

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION (T)

EXPARTE

DISPUTE:

Conductor E.G. Seagris and Trainman D.W. Turner, trip ticket No. 166, 14 December 1978, claim at Neebing 1 hour and 45 minutes or 21 3/4 miles.

EMPLOYEES' STATEMENT OF ISSUE:

Conductor E.G. Seagris and Trainman D.W. Turner cut for terminal time on December 14, 1978 under Article 24, paragraph 24.1, Agreement 4.3.

The Railway declined payment.

FOR THE EMPLOYEES:

(SGD.) L. H. MANCHESTER
GENERAL CHAIRMAN

There appeared on behalf of the Company:

L. R. Weir	-	System Labour Relations Officer, CNR, Montreal
R. W. Evans	-	Superintendent, CNR, Thunder Bay
R. A. Williams	-	Trainmaster, CNR, Thunder Bay
D. W. Coughlin	-	Labour Relations Assistant, CNR, Winnipeg
N. DelTorto	-	Labour Relations " " Montreal

And on behalf of the Brotherhood:

L. H. Manchester	-	General Chairman, U.T.U.(T) - Winnipeg

AWARD OF THE ARBITRATOR

Article 24.1 of the collective agreement provides as follows:

"24.1 Trainmen switching or delayed atterminals or turn-around

> points will be paid for actual time so occupied at through freight rates. Trainmen required to perform yardmen's work in any one yard in excess of 5 hours in any one day will be paid at yardmen's rates per hour for the actual time occupied. This time will be in addition to mileage or hours made on the trip."

The grievors were not switching at the material times. The time for which they claim is the period from 0955 when they arrived at Neebing (a terminal within the limits of the City of Thunder Bay), to 1140, when they departed Neebing, continuing their run from Thunder Bay North (which they had left at 0945) to Atikokan. The issue is whether or not they were "delayed" within the meaning of Article 24.1 when they stopped at Neebing, tied up their train and went home for lunch.

We all need to eat with reasonable regularity, and the grievors who had been called for 0530, would no doubt be getting hungry by about 1000. By that time they were en route on their run from Thunder Bay North to Atikokan, a distance of some 140 miles, and for which they would be paid on a mileage basis. Their caboose, equipped in accordance with Article 46 of the collective agreement was available to them for preparing and taking meals, and they would be entitled to take meals at a reasonable hour pursuant to Article 47. Taking meals, however, would not affect their entitlement to pay which, as noted, was on a mileage basis in respect of their trip. There is no provision for them to receive additional payment in respect of time taken for meals.

When the grievors tied up their train at the terminal at Neebing they certainly "delayed" the train. They themselves, however, were not "delayed" there within the meaning of Article 24.1. Rather, they caused a delay, and they are not entitled to profit therefrom. These are not circumstances in which the provision for payment set out in Article 24.1 applies, and accordingly the grievance must be dismissed.

J. F. W. WEATHERILL
ARBITRATOR