

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 801

Heard at Montreal, Tuesday, January 13, 1981

Concerning

QUEBEC NORTH SHORE AND LABRADOR RAILWAY

and

UNITED TRANSPORTATION UNION (T)

DISPUTE:

The Union claims the Railway is violating the provisions of the collective agreement concerning the crew consist of the "Employee Special/Wayfreight".

JOINT STATEMENT OF ISSUE:

The collective agreement, paragraph 45.01, stipulates:

"All trains other than ore service trains, will have at least one (1) conductor and two (2) brakemen. Passenger trains will have at least one (1) conductor and three (3) brakemen if required to handle mail, baggage and express".

The Union claims that the "Employee Special/Wayfreight" should have at least one (1) conductor and three (3) brakemen.

The Railway maintains that the crew of the train in question is not required to handle mail, baggage and express and consequently there is no need for a third (3rd) brakeman.

The Union filed a grievance that was rejected by the Railway.

FOR THE EMPLOYEES:

(SGD.) L. LAVOIE
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) R. L. BEAULIEU
MANAGER - LABOUR
RELATIONS

There appeared on behalf of the Company:

J. Bazin -- Counsel, Montreal
J. Sirois -- Trainmaster, Q.N.S. & L.R., Sept-Iles
R.P. Morris -- Superintendent, Q.N.S. & L.R., Sept-Iles

And on behalf of the Brotherhood:

L. Lavoie -- General Chairman, U.T.U. Local 1843,
 Sept-Iles
R. Bernatchez -- Counsel, Quebec City

AWARD OF THE ARBITRATOR

The Company's regular passenger trains are manned in accordance with Article 45.01(a) of the Collective Agreement. Mail and baggage are handled on such trains, and the crews consist of one conductor and three brakemen.

The trains in question in this case are "Mixed Employee Specials" and "Wayfreights". Such trains leave Sept-Iles on Thursday as Wayfreights, and return to Sept-Iles on Friday as Mixed Employee Specials, carrying passengers. Their purpose is to transport employees from on-line points to Sept-Iles for the weekend. Trains then leave Sept-Iles on Sunday as Mixed Employee Specials, returning the on-line employees to their working places. It would appear that such trains then return to Sept-Iles as Wayfreights.

The "Mixed Employee Special" carries passengers and is, whatever else it may be, a passenger train. It must, therefore, be manned in accordance with Article 45.01(a). The second sentence of that Article is as follows:

"Passenger trains will have at least one (1) conductor and three (3) brakemen if required to handle mail, baggage and express."

That provision does not require that all passenger trains have three brakemen. That requirement only arises where three brakemen are "required to handle mail, baggage and express". It would appear that in the past three brakemen were assigned to such trains. When the number of brakemen was reduced to two, the present grievance was filed.

Whatever the history of the matter may have been, the Company need not assign more than two brakemen to a passenger train where mail, baggage and express is not handled. It is the Company's position that the crews of the trains in question are not required to handle mail, baggage or express. The Union points out that baggage and other items are transported on such trains. That is no doubt the case, but such items are carried by the passengers themselves. Larger items may be carried on the Wayfreight, but that is not a passenger train. On the Mixed Employee Specials, the passengers carry their own goods and baggage. Thus, Article 45.01(a) does not require that such a passenger train have three brakemen.

The Union referred to two instances in which grievances had been filed because Company Officers had engaged in baggage handling or the like. Judging by the Company's replies, those grievances would appear to have been well-founded. The Company certainly acknowledged that supervisors should not, in normal circumstances, perform bargaining-unit work. It does not follow, however, that because there may have been occasional violations of that principle, the crews of Mixed Employee Specials are required to handle mail, baggage or express. Unless such a requirement is made, a crew of a conductor and two brakemen meets the requirements of Article 45.01(a).

For the foregoing reasons, the grievance is dismissed.

J.F.W. Weatherill
Arbitrator