CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 857

Heard at Montreal, Wednesday, September 9, 1981

Concerning

CANADIAN PACIFIC EXPRESS LIMITED

and

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

DISPUTE:

This concerns delay time wages claimed in the names of mileage rated drivers outside outside of their regularly scheduled bulletined and awarded positions as provided in Article 7.2.11 of the Working Agreement.

EMPLOYEES' STATEMENT OF ISSUE:

Mileage rated drivers, B. V. MacFarlane and K. Sargent, Calgary-Maple Creek routes and R. Ritchie - Vernon-Golden route, were delayed outside their scheduled hours of service at Maple Creek and Golden and booked all such delay time at the delay time rate.

The Brotherhood contends that all such delay time was Company sponsored, that these mileage rated vehiclemen reported for work as spelled out on their bulletin, departed as required and while enroute on their scheduled assignment they were delayed due to circumstances beyond their control at Maple Creek and Golden.

The Brotherhood seeks full terminal delay pay as provided in Article 33.3 for all delay time booked at Maple Creek and Golden by the named mileage rated vehiclemen.

The Company suggests that such time is wait time as in Article 33.5 and has denied the Brotherhood's request.
FOR THE EMPLOYEES:

(SGD.) J. J. BOYCE
GENERAL CHAIRMAN

There appeared on behalf of the Company:

D.R. Smith -- Director Industrial Relations
Administration & Personnel,
CP Express, Montreal

B.D. Neill -- Manager Labour Relations, CP Express,

Montreal

R.A. Colquhoun -- Labour Relations Officer, CP Rail, Montreal

And on behalf of the Brotherhood:

J.J. Boyce -- General Chairman, BRAC, Toronto

G. Moore -- Vice-General Chairman, BRAC, Moose Jaw, Sask.

J. Crabb -- Vice-General Chairman, BRAC, Toronto

AWARD OF THE ARBITRATOR

The claims made in this case are similar in principal to that dealt with in Case No. 855. In the instant case, the claims are for delay time at away-from-home "slip seat meets", that is, locations where the grievors awaited the arrival of other drivers with whom they would exchange vehicles before returning to their home terminal. The grievors are mileage-rated drivers. They are nevertheless entitled to certain payments in cases of delay. Article 33 of the collective agreement sets out various sorts of delay times for which payment is made, including "terminal delay"; "work time" (which is a "delay" relative to a highway trip); "wait time"; "lay- over" and perhaps others.

In the instant case the claim is made under article 33.3. This was not an instance of "terminal delay" however, and that article does not apply. It was, instead, an instance of "wait time" of the sort contemplated by article 33.5, which defines "wait time" (for which employees are to be paid on the actual minute basis), as including "meets or turnarounds exclusive of the first hour".

Employees on wait time, it should be said, are not necessarily off duty, and it does not follow that they are without compensation. Their compensation for the first hour of waiting must be taken to be included in their mileage rate. Their compensation thereafter is, of course, on the minute basis. In the instant case the waits involved did not exceed one hour. There was, therefore, no additional payment to be made pursuant to article 35.5. Article 33.3, as I have said, did not apply.

For the foregoing reasons, the grievance must be dismissed.

J.F.W. Weatherill
Arbitrator