CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1124

Heard at Montreal, Wednesday, July 6, 1983

Concerning

CANADIAN NATIONAL RAILWAY COMPANY
(CN Rail Division)

and

UNITED TRANSPORTATION UNION

DISPUTE:

Claim of Conductor J. C. Downey and crew for 100 miles freight rates, March 5, 1979.

JOINT STATEMENT OF ISSUE:

On March 5, 1979, Conductor Downey and crew were ordered at Foleyet, Ontario for their regular assignment train 220, Foleyet to Capreol. Upon reporting for duty the crew was instructed to obtain an engine off the shop track and perform required switching in Foleyet Yard.

Conductor Downey and crew claimed 100 miles at freight rates under the provisions of Article 13.3 (now ARticle 9.9) of Agreement 4.16.

The Company declined payment.

FOR THE UNION:	FOR THE COMPANY:
(SGD.) R. A. BENNETT General Chairman	(SGD.) D. C. FRALEIGH Assistant Vice-President, Labour Relations

There appeared on behalf of the Company:

H. J. Koberinski	- Manager, Labour Relations, CNR, Montreal
M. Delgreco	- Senior Manager, Labour Relations, CNR, Montreal
W. A. McLeish	- Manager, Labour Relations, CNR, Toronto
J. R. Church	- Superintendent, Western Ontario Division, CNR, Toronto
J. A. Sebesta	- Co-ordinator Transportation - Special Projects, CNR, Montreal
J. A. Allessandro	- Labour Relations Officer, CNR, Toronto

And on behalf of the Union:

M. J. Hone	- Vice General Chairman, UTU, Toronto
R. A. Bennett	- General Chairman, UTU, Toronto
T. G. Hodges	- Secretary, General Committee, UTU, Toronto

AWARD OF THE ARBITRATOR

The grievors were called for straight-away through freight service. That was the nature of their regular assignment, which they performed. They were not called for "extra service", although they did perform certain switching, not in connection with their own train, which work was paid for as part of initial terminal time.

It is the Company's prerogative to designate the type of service it requires to have performed. It must, however, use the correct designation for the service required. It is the service which controls the rate of payment. In this case the grievors were called for their regular freight service run, and that was in fact the work performed. The Collective Agreement contemplates that there may be circumstances where a crew, called for one type of service, performs additional work as well. That is the case here. The crew were paid for that additional work. They were not, however, "called for extra service" within the meaning of Article 9.9, and so would not be entitled to a minimum day in respect of that work, in addition to their payment for the service for which they were called.

For the foregoing reasons, the grievance is dismissed.

J. F. W. WEATHERILL,
ARBITRATOR.

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