CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1318.
Heard at Montreal, Tuesday, January 8th, 1985.

Concerning

CANADIAN NATIONAL RAILWAY COMPANY
(CN Rail Division)

and

UNITED TRANSPORTATION UNION

DISPUTE:

Claim of Conductor R. K. Koskinen and crew, Sarnia, dated June 1, 1983, for 25 minutes final terminal time.

JOINT STATEMENT OF ISSUE:

On June 1, 1983, Conductor R. K. Koskinen and crew manned Train 416 operating from Sarnia to Don Yard, Toronto. Enroute, Train 416 was delayed at Cabin "E", Toronto, from 0155 to 0215, and passed the outer switch of Don Yard at 0220. Conductor Koskinen and crew were released from duty at Don Yard at 0300, June 2, 1983.

Conductor Koskinen and crew claimed a total of one hour and five minutes final terminal time from 0155 to 0300.

The Company disallowed this claim and compensated Conductor Koskinen and crew for final terminal time from 0220 to 0300, a total of 40 minutes, in accordance with Article 7.8 of Agreement 4.16.

The Union contends that, since Train 416 was delayed at Cabin "E" from 0155 to 0215, by transfer movement K046 which was running ahead, Conductor Koskinen and crew are entitled to payment of final terminal time beginning at 0155 pursuant to Article 7.9 of Agreement 4.16.

The Company declined payment of the additional 25 minutes.

FOR THE UNION:	FOR THE COMPANY:
(Sgd.) T. G. HODGES FOR: General Chairman	(Sgd.) D. C. FRALEIGH Assistant Vice-President Labour Relations.

There appeared on behalf of the Company:

J.B. Bart, Labour Relations Officer, CN, Montreal.
D.W. Coughlin, Manager Labour Relations, CN, Montreal.
J.A. Sebesta, Coordinator Transportation, CN, Montreal.
E.A. Durham, Trainmaster, CN, Toronto.

And on behalf of the Union:

T.G. Hodges, Vice General Chairman, UTU, Toronto.

AWARD OF THE ARBITRATOR

The principal task in this dispute involves defining "the final terminal" at which point "final terminal time" may be computed for delays occasioned by the circumstances anticipated under Article 7.9 of Agreement 4.16. That provision reads in part as follows:-

> "Should a train be delayed at the signal controlling movement into a yard or terminal, yard limit board or behind another train similarly delayed, final terminal time shall be computed from the time the engine reaches that point of delay until time conductor registers off duty".

It is common ground that a delay in the aggrieved crew's run of approximately 25 minutes occurred because of a prior yard transfer at Signal 6L at Cabin E through the High line at Toronto Union Station. It is at this specific point that the trade union claims that final terminal time for purposes of Article 7.9 should begin to run. And, the rationale for making this submission is premised on the notion that any delay, whatever the cause, that occurs within the geographic limits of the complex of yards at Toronto constitutes "a final terminal".

It is also common ground that had no delay been occasioned by the prior yard transfer and had the crew's run finished in the ordinary course at the designated objective terminal at the Don Yard, then final terminal time would not begin until arrival at Signal 283 controlling access to that yard. Since the delay occasioned, as described, by the transfer of another vehicle did not occur at this point, the company argued that none of the conditions contemplated by Article 7.9 were established that would warrant the computation of added terminal time.

The company's position is eminently sound. Surely final terminal time is intended to be computed upon arrival of the train at the final terminal. Article 7.9 clearly provides that any delay occasioned at the point of arrival for the reasons cited in that provision allows for the computation of added final terminal time. The final terminal is not a chameleon. It does not change with changing circumstances. And, in this regard, the Don Yard on the grievors' run was designated the point of arrival and thereby was firmly established as the objective terminal. In my view the objective terminal does not cease to be the final terminal because of a delay that is occasioned beyond that terminal's geographic limit. Or, more precisely, the final terminal remains the object- ive terminal irrespective of any delay occasioned by the crew in completing its run at some other point on the train route.

The fact, that the delay that occurred in this case was within the designation of a complex of yards referred to by the parties as the Toronto Yard does not bear any relevance to the grievors' entitlements under Article 7.9 of the collective agreement. So long as the delay was not occasioned for the pre- cise reasons set out in that provision at the final or the ob- jective terminal, then no added entitlement for final terminal time was justified.

Or, as the Company's representative pointed out, a sepa- rate and distinct provision, as is contemplated in the situation described in Article 7.9(a) of the collective agreement, would have to be contained in the collective agreement to extend any such added benefit.

For all the foregoing reasons the grievance is denied.

DAVID H. KATES
ARBITRATOR.