CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1383

Heard at Montreal, Tuesday, July 9, 1985

Concerning

CANADIAN NATIONAL RAILWAY COMPANY
(CN Rail Division)

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

The Brotherhood's disagreement with the Company's interpretation of Paragraph 32.1, Article 32, Agreement 1.2, as stated in the letter of Assistant Superintendent R. I. Richardson of October 15, 1982 and also, as stated in the letter of Superintendent P. L. Ross of December 6, 1982.

JOINT STATEMENT OF ISSUE:

As a result of the interpretation placed upon Article 32.1 through Mr. R. I. Richardson's letter of October 15, 1982, the Brotherhood initiated a grievance with regards to that interpretation. Notwithstanding the grievance, the Company continued to maintain its position, supporting Mr. Richardson's interpretation of Paragraph 32.1, Article 32, which is in conflict with the Brotherhood's contention.

The Brotherhood contends that:

"All locomotives in pool service be placed on the shop track if not run through on a connection basis from a change off point."

The Company has declined the grievance.

FOR THE EMPLOYEES:

(SGD.) J. W. KONKIN
General Chairman

FOR THE COMPANY:

(SGD.) D. C. FRALEIGH
Assistant Vice-President
Labour Relations.

There appeared on behalf of the Company:

- G. C. Blundell - System Labour Relations Officer, CNR, Montreal
- M. Healey - Manager Labour Relations, CNR, Montreal
- K. G. Macdonald - Regional Manager Labour Relations, CNR, Edmonton
- L. G. Finnerty - System Master Mechanic, CNR, Montreal
- J. H. Hastie - Master Mechanic, CNR, Vancouver

And on behalf of the Brotherhood:

J. W. Konkin - General Chairman, BLE, Winnipeg

AWARD OF THE ARBITRATOR

Paragraph 32.1, Article 32, Agreement 1.2 provides as follows:

> "Locomotive Engineers in pool service will be run first in, first out from the shop track or change-off point on their respective subdivision or subdivisions, except as herein-after provided."

The trade union's position with respect to the interpretation of Paragraph 32.1, Article 32, is that unless a train engineer "immediately" takes over a train consist, as on a run through, at the change off where the previous crew terminated its run, the train must be placed on the shop track. At that point the train unit would be disengaged from its consist presumably for servicing. This would be the requirement of Paragraph 32.1 of Article 32 even though there is no need to take the train unit to the shop track for servicing. Indeed, at some train stations there are no shops to service train units and accordingly there are no shop tracks.

The trade union insists for a number of reasons, including a safety concern, that trains that are not subject to an immediate "change over" should be parked on the shop track with the unit removed from the train consist. From the company's perspective this would represent an unnecessary and superfluous operation that would not enhance the expeditious operation of its railway enterprise.

The company's interpretation of Paragraph 32.1, Article 32 is focused on the purpose designed by that provision. And that is, on the pain of payment of a penalty premium, the objective is to ensure the orderly, chronological and fair assignment of work to train enginemen on a first in first out basis. So long as the train consist is parked at a designated point within the train station then the company has complied with the requirement of placing the train at a "check off point" The subsequent train engineman assigned to a run is thereby directed, provided the first in first out principle is respected, to the appropriate spot for the commencement of that assignment.

In support of this notion the company relied upon CROA Case #829 wherein Arbitrator Weatherill sustained the notion that a "check off" point constituted any point in a train station where designated by the company for the purpose of terminating or commencing a run.

In resolving this dispute I am satisfied that the company's position should prevail. The interpretation advanced by the trade union of Paragraph 32.1, Article 32, simply reflects an anachronism of

applying past interpretations of like provisions of the collective agreement to situations involving the use of the diesel engine. As I understood the evidence in the past when steam locomotives were in use a regular, predictable part of a train engineman's assignment was to park his train unit on the shop track in order to be serviced. With the introduction of the diesel unit train units do not have to be serviced with the same regularity. Indeed, a train unit presently can be left parked with its consist attached in a state of readiness for the next crew to take over. Nowhere in Paragraph 32.1, Article 32 or anywhere else in the collective agreement does it require that the change over to a subsequent crew is to be "immediate". What is required however, is that when the change over does take place "the first in first out" principle be followed in making the assignment.

To adopt the trade union's position would require the parking of train units on a shop track and their disengagement from their consist where absolutely no servicing or maintenance of the unit is needed. The interpretation given Arbitrator Weatherill to the term "change off point" to mean any designated trackage point within a train station simply reflects the reality of the operational requirements of running a railway enterprise in the modern technological world. Indeed, that interpretation would avoid the absurdity of my directing the parking of diesel units on track where no shop or shop track exists.

For all the foregoing reasons the grievance is denied.

DAVID H. KATE?,
ARBITRATOR.