

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1399

Heard at Montreal, Tuesday, September 10, 1985
Concerning

CANADIAN NATIONAL RAILWAY COMPANY
(CN Rail Division)

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Claim of Locomotive Engineer P. E. Longtin
of Winnipeg for 40 miles deadheading
between Redditt and Kenora under Article
67.3 and Addendum 2 of Agreement 1.2.

JOINT STATEMENT OF ISSUE:

On February 26, 1983, Locomotive Engineer Longtin was enroute Sioux Lookout to Symington on Train 375 when he requested rest pursuant to the provisions of Article 28 of Agreement 1.2. After Train 375 was yarded at Redditt, Locomotive Engineer Longtin was transported by the Company to hotel accommodation at Kenora. On 27 February 1983, Mr. Longtin was transported by the Company to his train at Redditt where the trip was resumed to Symington. Locomotive Engineer Longtin submitted a time claim which included 40 miles (20 miles in each direction) between Redditt and Kenora, which was declined by the Company.

The Brotherhood contends that Locomotive Engineer P. E. Longtin was entitled to payment for deadheading, under paragraph 67.3, Article 67, Agreement 1.2, while on Company business and travelling between Redditt and Kenora on February 26th and 27, 1983.

Additionally, the Brotherhood contends that the Company did not comply with Addendum No. 2, Agreement 1.2, and extended the run of Locomotive Engineer P. E. Longtin unnecessarily and considerably in excess of the 10 hours stated in Addendum No. 2.

The Company rejected the Brotherhood's contention.

FOR THE BROTHERHOOD:

(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:

M. Healey - Manager Labour Relations, CNR, Montreal

G. C. Blundell - Labour Relations Officer, CNR, Montreal

And on behalf of the Brotherhood:

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

AWARD OF THE ARBITRATOR

This is a claim for the deadheading allowance of forty miles involved in the grievor's transportation to and from the station at Redditt upon his release to take rest. The claim is made pursuant to Article 67.3 of the collective agreement. The relevant provisions of Article 67 read as follows:

"67.1 Deadheading or travelling passenger on Company business with the proper authority will be paid as follows:".

"67.3 When deadheading is coupled with service paid for at road rates on a straightaway basis the deadheading time and any dead time will be included with the time occupied in other service when computing overtime. The time or mileage will be paid at the highest rate applicable to any class of service performed with a minimum of 100 miles."

I am quite satisfied, as the Company argued that this case is identical to the circumstances described in CROA Case No. 1232. Once the grievor was released to take rest he thereby ceased to be on duty. He therefore cannot be seen to be "deadheading on company business" thereafter for purposes of Article 67.3 when he was taxed to and from the hotel in Kenora where he took rest.

Rather, the employer's obligations were governed by Article 28.5 of the collective agreement. That is to say, the employer was obliged after the grievor took rest to:

- (i) provide him with suitable accommodation;
- (ii) to give consideration to the availability of eating facilities, and
- (iii) to provide him with a meal allowance.

The only circumstance where it is contemplated that a deadheading allowance will be paid to an employee who books rest en route is where he is replaced by another engineer. In that situation Article 28.7 clearly requires the employer, once it instructs the employee to deadhead, to compensated "on a continuous time basis for service and deadheadIng as per class of locomotive and service". Absent that circumstance, the employer's obligations are spent once it has complied with Article 28.5 of the collective agreement.

For all the foregoing reasons the grievance is denied.

DAVID H. KATES,
ARBITRATOR.