

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1570

Heard at Montreal, Thursday, October 16, 1986

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

DISPUTE:

Claim for travel time for Extra Gang 151.

JOINT STATEMENT OF ISSUE:

Marlboro was the headquarter location for Extra Gang 151. Most of the employees working on Gang 151 were situated in Edson. Due to a lack of public transportation from Edson to Marlboro the Company provided a free bus service for those employees who were experiencing difficulties travelling to Marlboro.

The Brotherhood contended that because the employees were travelling to and from Marlboro in a Company supplied vehicle they were entitled to payment of travel time in accordance with Article 11.10 of Agreement 10.1.

The Company disagrees with the Union's contention.

FOR THE BROTHERHOOD:

(SGD.) G. SCHNEIDER
System Federation
General Chairman

FOR THE COMPANY:

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

There appeared on behalf of the Company:

J. Russell	- Labour Relations Officer, CNR, Montreal
T. D. Ferens	- Manager Labour Relations, CNR, Montreal
S. F. Mills	- System Manager Work Equipment, CNR, Montreal

And on behalf of the Brotherhood:

G. Schneider	- System Federation General Chairman, BMW, Winnipeg
T. J. Jasson	- Federation General Chairman, BMW, Winnipeg

AWARD OF THE ARBITRATOR

It is clear that Article 11 of the Collective Agreement is intended to confer a right on employees to be paid when they are required by the Company to travel. Any doubt about that is resolved by the heading of Article 11; "Travelling or detained on orders of the

Company".

In this case the employees were ordered by the Company to work out of Marlborough, but were provided no living accommodation at that site, contrary to the Company's normal practice, apparently, because of a shortage of White Fleet accommodation. As a result they were required to live in Edson, described as one hour's distance by highway.

Underlying Article 11, is the principle that employees should be compensated when they are travelling not out of their own free will but because the Company requires them to. Generally that will not include travel from an employee's normal place of residence to his or her place of work. In the instant case it is difficult to accept the Union's argument that the employees were forced to travel. The material establishes that the bulletin posted for establishing the Extra Gang, dated Dec. 5, 1984 expressly gave notice to any applicant that headquarters would be in Marlborough and no White Fleet accommodation would be provided. In other words, it appears that the employees who elected to work on extra Gang 151 did so voluntarily, knowing, or with reasonable grounds to know, that travel would be involved.

In many respects the circumstances in this case do not differ appreciably from those in CROA Case #1232. There the Arbitrator held that having found suitable accommodation for an employee, albeit at some distance from the work site, there was no obligation on the part of the Company to compensate the grievor for the time spent travelling to and from work in a Company provided vehicle. The Arbitrator must likewise conclude in the instant case that the employees travelling from Edson to Marlborough cannot be said to have done so "on orders from the Company". For this reason the grievance must be dismissed.

MICHEL G. PICHER,
ARBITRATOR.