

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1614

Heard at Montreal, Tuesday, February 10, 1987

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION

DISPUTE:

Claim of Conductor G. Shurvell of Sioux Lookout for 100 miles under the provisions of Article 123.7 (b) of Agreement 4.3.

JOINT STATEMENT OF ISSUE:

Conductor Shurvell, as Local Chairman, was requested to attend a Company initiated meeting in Winnipeg on the 3rd and 4th of November, 1983. He was compensated for the "actual time lost" from his regular assignment as well as his travel expenses as provided for in Articles 123.7 (b) and (c). Conductor Shurvell claimed 100 miles basic pay for November 5, 1983, the day he travelled back to Sioux Lookout, which was declined by the Company.

The Union contends that payment is warranted as provided by Article 123.7 (b).

The Company disagrees with the Union's contention on the basis that Conductor Shurvell was properly compensated for November 5, 1983 pursuant to Article 123.7 (c).

FOR THE UNION:

(SGD.) LARRY OLSON
FOR: General Chairman

FOR THE COMPANY:

(SGD.) M. DELGRECO
FOR: Assistant
Vice-President
Labour Relations

There appeared on behalf of the Company:

D. Lord - Labour Relations Officer, CNR, Montreal
J. R. Hnatiuk - Manager Labour Relations, CNR, Montreal
L. A. Harms - Labour Relations Officer, CNR, Montreal
M. C. Darby - Coordinator Transportation, CNR, Montreal
K. J. Knox - Manager Labour Relations, CNR, Winnipeg
P. Morrissey - Labour Relations Officer, CNR, Winnipeg

And on behalf of the Union:

L. H. Olson - Vice-General Chairman, UTU, Winnipeg
C. S. Lewis - Secretary, UTU, Coquitlam
R. J. Proulx - Vice-President, UTU, Ottawa

AWARD OF THE ARBITRATOR

The material establishes that as Local Chairman of the Union, Conductor Shurvell was required to attend a Company-initiated meeting in Winnipeg. On November 1st, an assigned work day, he was required to book off' and drive approximately 285 miles from Sioux Lookout to Winnipeg to attend the meetings scheduled for the next three days. He attended at Winnipeg as necessary on November 2, 3 and 4, 1983. On November 5, 1983, he made the return trip home to Sioux Lookout.

It appears that the grievor's claim for wages lost for November 1st, a day he was forced to book off assigned work, November 2nd, an assigned day off, and November 3rd and 4th, missed days of assigned work, were all paid by the Company pursuant to Article 123.7 of the Collective Agreement. His claim for the time spent travelling, however, on November 5, 1983, was declined by the Company, on the basis that the return travel was on his own time, and was therefore not covered by the provisions of the Article.

The terms of the Collective Agreement governing compensation to employees for attendance at Company-initiated meetings are as follows:

123.7 When a Local Union officer is requested by a Company officer to attend a meeting on a matter initiated by the Company, such an employee will be compensated as follows on account of such attendance:

(a) where necessary to lose time, or a trip, reimbursement for actual time lost;

(b) where available between trips or on a designated rest day;

(i) 75 miles or 4 hours if in passenger service;

or

(ii) 50 miles or four hours if in freight service;

or

(iii) 4 hours if in yard service; or

(iv) for time in excess of four hours, pro-rata payment on a minute basis;

(v) payment hereunder will be at the rate of pay for the position and the class of service last performed;

(c) where necessary for any official Union representative to travel from another terminal or if such employees' assignments are located at other than the location of the meeting attended, they will be reimbursed for actual reasonable expenses for meals, travelling costs and hotel/motel accommodation (in addition to payment outlined in paragraphs (a) or (b) above). Expenses claimed must be submitted on CN Form 3140B and receipts for each expense claimed must accompany such submission.

The claim advanced on behalf of Conductor Shurvell is under sub-paragraph (b) (iv). It argues that November 5th was a designated rest day, in respect of which he is entitled to time in excess of 4 hours, pro-rata payment on a minute basis.

The issue is whether Article 123.7 contemplates the payment of compensation to a local Union officer for time spent travelling on what would otherwise be his or her day off, in order to attend a Company initiated meeting. The purpose of Article 123.7 is plain enough. Meetings from time to time between management and Union officers are necessary to harmonious relations in the ongoing administration of a Collective Agreement. To facilitate the process of communication the parties have agreed to Collective Agreement terms which protect a Union officer from the loss of his or her normal rights or advantages under the Collective Agreement for attendance at such meetings. As the language in sub-paragraph (b) plainly shows, it was their specific intention that the officer should be compensated for time spent "on account of such attendance" in relation to the loss of a designated rest day. That is plainly reflected in the breakdown of the Article: sub-paragraph (a) deals with the loss of working time, sub-paragraph (b) deals with the loss of time off and sub-paragraph (c) addresses the reimbursement of out-of-pocket expenses.

In the instant case it would be plainly impossible for a local Union officer from Sioux Lookout to attend a meeting in Winnipeg without expending a day for travel in each direction. In the Arbitrator's view, given the overall purpose of Article 123.7, it is difficult to accept the interpretation of the Company that the sacrifice of the day off is not, in these circumstances, "on account of" attendance at the meeting in Winnipeg initiated by the Company. The facts fall plainly within the ambit of that phrase: but for the meeting the rest day would not have been lost to Conductor Shurvell. That is precisely what the Article is intended to redress. I can see no reason in logic, nor in the language of the Collective Agreement, to support the view that the grievor should be compensated for a day off while at the meeting in Winnipeg, but not for a further day off which was unavoidably expended in travel necessitated solely by that meeting.

For the foregoing reasons the grievance is allowed. The claim for 100 miles basic pay made by Conductor Shurvell in respect of November 5, 1983, shall be paid forthwith. I retain jurisdiction in the event of any dispute between the parties in respect of the amount of payment.

MICHEL G. PICHER,
ARBITRATOR.