

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1618

Heard at Montreal, Wednesday, February 11, 1987

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Claims of Locomotive Engineer W. F. Hyndman, Toronto, dated April 6th, 11th, 15th, 26th and May 5, 1985, for 12-1/2 miles at the road switcher rate of pay.

JOINT STATEMENT OF ISSUE:

On each of the aforementioned dates, Mr. Hyndman was called to perform yard service on the 0700 Mimico Yard assignment. During each of those tours of duty, the assignment performed switching at PPG Industries Canada Ltd. and, as a result, Mr. Hyndman claimed an additional one hour's pay at the road switcher rate of pay over and above his regular yard pay. The Company declined payment of the additional one hour.

The Brotherhood subsequently appealed the matter contending that Mr. Hyndman was entitled to the one hour pursuant to the provisions of Article 42.A.3 of Agreement 1.1.

The Company has declined the Brotherhood's appeal.

FOR THE BROTHERHOOD:

(SGD.) P. M. MANDZIAK
General Chairman

FOR THE COMPANY:

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

There appeared on behalf of the Company:

J.B. Bart - Labour Relations Officer, CNR, Montreal
D.W. Coughlin - Manager Labour Relations, CNR, Montreal
M.C. Darby - Coordinator Transportation, CNR, Montreal

And on behalf of the Brotherhood:

P.M. Mandziak - General Chairman, BLE, St. Thomas, Ontario

AWARD OF THE ARBITRATOR

The material establishes that the switching performed by Locomotive Engineer Hyndman was within the limits of the Mimico yard. The yard is bounded at its western extremity at mileage 9.4. At that precise point, just within the limits of the yard, there is a switch. It is common ground that the switch must be utilized to access the

industrial plant of PPG Industries Canada Limited, which, it is not disputed, is also located within the limits of the yard. In order to make use of the switch to access the plant, a train or an engine running light is required to back beyond mileage 9.4 for the length of the train or locomotive as the case may be and no more. That is the only extent to which the equipment can be said to be "on the road".

In the Arbitrator's view the interpretation of Article 42.A.3 of the Collective Agreement advanced in support of the claim in this case is unduly technical, and falls outside the intention of Article 42.A.3. It provides a specific wage payment for "Locomotive Engineers used in road service". I am satisfied in the instant case that the grievor was not used in road service in the sense intended by the Article. Quite to the contrary, the backing of his train for the slight distance beyond the switch at mileage 9.4 was entirely and exclusively for the purpose of performing yard service within the limits of the Mimico yard. The work so performed falls clearly within the ambit of yard switching and yard service as contemplated in Article 42.A.3 of the Collective Agreement. For these reasons the grievance must be dismissed.

MICHEL G. PICHER,
ARBITRATOR.