CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1724

Heard at Montreal, Tuesday 8 December 1987

Concerning

QUEBEC, NORTH SHORE AND LABRADOR RAILWAY

And

UNITED TRANSPORTATION UNION

DISPUTE:

Application of Letter of Intent # 61 concerning switching cars in Labrador City Yard.

JOINT STATEMENT OF ISSUE:

The Union grieves that the Letter of Understanding # 61 was violated when a Wabash Lake Railway crew coupled three (3) cars to a freight train.

The Railway contends that there was no violation of the Collective Agreement and the Letter of Intent # 61.

FOR THE UNION:	FOR THE COMPANY:
(SGD) JACQUES ROY General Chairman	(SGD) A. BELLIVEAU Superintendent Labour Relations

There appeared on behalf of the Company:

D. Manzo	- Counsel, Montreal
L. Lagac	- Superintendent, Labour Relations, Sept-Iles
D. Thomas	- Trainmaster, Sept-Iles
J. Y. Nadeau	- Superintendent Transportation, Sept-Iles
K. D. Turriff	- Superintendent Maintenance of Equipment
P. Caouette	- Counsel, Montreal

And on behalf of the Union:

R. Cleary - Counsel, Montreal

AWARD OF THE ARBITRATOR

The material establishes that for a number of years crews of the Wabush Lake Railway have set off cars in the Company's Carol Lake Yard at Labrador City. The Union grieves that on April 5, 1986 a Wabush Lake Railway crew coupled three cars to a freight train standing on the loop track in the Carol Lake Yard. Because the three cars were blocking a level crossing, upon the yardmaster's request the Wabush Lake railway crew pushed the entire train forward for some twenty-five to thirty car lengths.

The rights of the parties are governed by Article 1 of the Preamble of the Collective Agreement and Letter of Understanding No. 61 which provides, in part, as follows:

> PREAMBLE
> 1. Q.N.S.& L. train crews employed at Labrador City will have "protected rights" to Yard Service at Labrador City as presently established including short turn-around freight and passenger service to Ross Bay Junction.
>
> LETTER OF INTENT
> As set out in the award of the Honourable H. Carl Goldenberg, dated July 24th, 1973, we agree "that QNS&L undertake that the work of switching cars from one track to another in Labrador City Yard will be assigned to its yard crews.

The first position of the Union is that by merely allowing the Wabush Lake Railway crew to set off cars on the loop track, the Company has permitted them to switch cars in the Labrador City Yard contrary to Letter of Understanding No. 61. Implicit in the Union's position is that moving any piece of equipment from one track to another, through a switch, constitutes switching within the meaning of the Letter of Understanding. The Company, on the other hand, argues that switching involves more than merely moving through a switch, and involves assembling or separating trains or movements. In the Arbitrator's view it is unnecessary to resolve the conflict of interpretation between the parties. The meaning of Letter of Understanding No. 61 in the instant case is disclosed by past practice, and the acquiescence of the Union. It is not disputed that for some years crews of the Wabush Lake Railway have entered the switching limits of the Labrador City Yard, usually, but not exclusively, to drop off cars in Section B of the yard. The practice does not appear to have given rise to any grievance by the Union. In these circumstances, whatever may be the meaning of the term "switching", the Arbitrator must find that the parties have intended that the mere dropping off of cars by the Wabush Lake Railway crew within the limits of the

Labrador City Yard is not a violation of the Letter of Understanding.

That does not entirely dispose of the grievance, however. It is clear that the Collective Agreement reserves to the Union the exclusive right to perform yard work within the Labrador City Yard, including the spotting of trains. The Arbitrator can find nothing in the Collective Agreement nor in Letter of Understanding No. 61 that would confer upon a crew of the Wabush Lake Railway jurisdiction to move assembled trains within the yard, whether to clear a level crossing, or for any other purpose. Whether it conveniences the Company or not, such work is plainly intended to be within the exclusive jurisdiction of the Union. For these reasons the grievance must be allowed in part. The Arbitrator declares that the Company violated Article 1 of the Preamble to the Collective Agreement by permitting the movement of a train on the loop track by a crew other than a train crew employed by the Company enjoying protected rights to yard service. I remain seized of this matter in the event of any dispute between the parties respecting the issue of compensation, if any, payable in these circumstances.

MICHEL G. PICHER
ARBITRATOR