

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1726

Heard at Montreal Tuesday, December 8, 1987

Concerning

QUEBEC NORTH SHORE & LABRADOR RAILWAY

And

UNITED TRANSPORTATION UNION

DISPUTE:

Spotting limestone with tractor and IOC supervision.

JOINT STATEMENT OF ISSUE:

The Union grieves alleging that the spotting of limestone for unloading is the responsibility of the Carol Yard Crews and that Preamble # 4 was not respected.

The Railway contends that the contract was not violated by the spotting of cars with a tractor for unloading the lime- stone.

FOR THE UNION:

(SGD) JACQUES ROY
General Chairman

FOR THE COMPANY:

(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 Union asserts that it has exclusive jurisdiction over the spotting of limestone cars during the course of unloading on the newly established limestone track in the Labrador City Yard. Its grievance is based on the terms of Article 1 of the Preamble to the Collective Agreement, which provides as follows:

PREAMBLE

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"

The issue is whether the Union can demonstrate established rights to the spotting of cars for the purposes of unloading in these circumstances. If, for example, it could show that in the past the Company had consistently used yard crews to spot cars during similar unloading operations, the grievance would be well founded. It has not, however, succeeded in doing so.

While a number of representations were made with respect to the nature of the practice of loading and unloading various types of cars within the Labrador City Yard, what emerges beyond dispute is that for years various kinds of cars have been spotted using either a car puller or, on occasion, a tractor or back-hoe. This is particularly so during the continuous loading and unloading operations which may span the better part of a twenty-four hour day. It appears that the only time that a yard engine is used to spot cars in these circumstances is when the alternative mode of equipment has broken down or, because of the steepness of a grade, safety requires the use of a locomotive for spotting. On the basis of the material before me I am satisfied that the use of a yard locomotive for spotting during the loading and unloading of materials such as limestone is the exception rather than the rule. In this grievance the onus is upon the Union to establish the right which it asserts. It has failed to do so, and the grievance must therefore be dismissed.

MICHEL G. PICHER
ARBITRATOR