

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1742

Heard at Montreal, Wednesday, 13 January 1988

Concerning

QUEBEC NORTH SHORE & LABRADOR RAILWAY

And

UNITED TRANSPORTATION UNION

DISPUTE:

Interpretation of Article 45.01a).

JOINT STATEMENT OF ISSUE:

The Union grieves that the Railway has violated Article 45.01a) of the Collective Agreement by not adding an additional brakeman when transporting coke breeze in ore cars on an ore train.

The Railway contends that it has complied with all the provisions of the Collective Agreement.

FOR THE UNION:

FOR THE COMPANY:

(SGD) JACQUES ROY  
General Chairman

(SGD) A. BELLIVEAU  
Manager, Human Resources

There appeared on behalf of the Company:

D. Manzo	- Counsel, Montreal
J. Sirois	- Trainmaster, Sept-Iles
K. D. Turiff	- Superintendent, Maintenance of Equipment, Sept-Iles
A. Belliveau	- Manager, Human Resources, Sept-Iles
R. Rondeau	- Labour Relations Officer, Sept-Iles
J. Y. Nadeau	- Superintendent, Transportation, Sept-Iles
P. Caouette	- Observer

And on behalf of the Union:

R. Cleary	- Counsel, Montreal
R. J. Proulx	- Vice-President, Ottawa
W. G. Scarrow	- General Chairman, Sarnia

AWARD OF THE ARBITRATOR

The evidence establishes that since its beginning, the railway has utilized its ore trains to transport iron ore from the mines in Schefferville and Labrador City to Sept-Iles. After closing of the mine at Schefferville, this practice was followed only out of Labrador City. At the beginning of the operation the iron transported in this way was in a raw state, but more recently it was

converted into pellets or concentrates, with a more concentrated iron content.

The pellets are produced in a pelletizing plant at Labrador City which uses three ore products: coke breeze, bentonite and dolomite. These substances originate elsewhere and are transported by boat to Sept-Iles, from where they are transported by train to the mill at Labrador City. The Company treats the movement of this material, as much as they are transported in cars normally used for the transport of ore products, as an ore train within the meaning of Article 45 of the Collective Agreement. This permits the utilization of a single brakeman, rather than two, in the crew of these trains.

The Union claims that the transport of these products is not alluded to in Article 45. In accordance with this, it is a question rather of the transport of commodity products which requires the use of two brakemen. Its Counsel maintains that the intention of Article 45 was to permit the Company to have recourse to a reduced crew only when it is a question of transporting iron ore produced by the Company, whether at Schefferville or at Labrador City, including iron ore in the form of pellets. In accordance with this the transport of other products, whether from iron or other sources, does not permit the Company to use a reduced crew, including when the train in question is made up only of cars normally devoted to the transport of iron ore. In short, Counsel for the Union maintains that in Article 45 the term "ore service train" refers to a train of iron ore, and that the transport of other ore substances by the Company does not constitute the movement of an ore train which permits the use of a reduced crew.

The pertinent articles of the Collective Agreement are as follows:

45.01a) All trains other than ore service trains, will have at least one (1) conductor and two (2) brakemen. Passenger trains will have at least one (1) conductor and three (3) brakemen if required to handle mail, baggage and express.

45.02 All trains in ore service will have at least one (1) conductor and two (2) brakemen until all trainmen having seniority date of or prior to June 15th, 1959, have been recalled and ordered to report for service.

45.03 After all trainmen having seniority date of or prior to June 15th, 1959, are recalled and ordered to report, all in ore service will have at least one (1) conductor and o brakeman.

45.04 No trainman having seniority date of or prior to June 15th, 1959, will be laid off in staff reduction unless all trains in ore service have at least one (1) conductor and two (2) brakemen.

Article 45 is the result of the report of a Board of Conciliation convened under the chairmanship of Mr. Norman Genser. The report, dated 7 July 1959, dealt with the dispute concerning the composition of the crews of the ore train and, in particular, the demand by the Company to be allowed to reduce the number of brakemen. At p.9 of its report, the Board made the following recommendation:

After a very careful consideration, it is our opinion that in this particular railroad the Quebec North Shore and Labrador Railway Company operating as it does at this time in its present area and under the conditions as disclosed and in a period of a year from April to November, it may be that the ore trains of this railroad can be operated efficiently and safely by a crew composed of:

An engineer;  
a conductor; and  
headend brakeman.

As a result, this recommendation was incorporated into the Collective Agreement as Article 45.

It appears that the reasons which motivated the recommendation of the Board were clearly elaborated in its report. The Board accepted in large part the position of the Company as to the greatly reduced duties of the second brakeman aboard the ore service train. Given that the journey of an ore train involves very few stops and switching en route, and that consequently the conductor finds himself equally free of a good number of duties, the Board concluded that the latter was able to accomplish without difficulty the duties of the second brakeman, at the rear of the train.

It is evident to the Arbitrator that the reasoning of the Board was founded on the movement of an ore train and not on the contents of its cars. There is nothing in the words chosen by the Board, nor in the meaning of its recommendation, which seeks to define or to limit what an ore train is for the purposes of the Collective Agreement. The agreement itself does not contain any restriction on what may constitute an ore train for the purposes of that document. On the contrary, the agreement seems to recognize that an ore train does not acquire its characteristic as such only because of the content of its cars. For example, Article 1.02 which deals with the payment of the ore train rate applies to "... all employees on trains hauling one or more ore cars, loaded or empty". At a minimum, this article seems to indicate that for the purposes of remuneration of personnel a train does not necessarily have to be loaded with iron ore to qualify as an ore train within the meaning of the agreement.

In the interpretation of a collective agreement it is important to avoid technical interpretations based on the limited fact which existed at the moment when a particular article was inserted into the agreement. If, for example, the parties agree that an insurance plan will be put in place to defray medical expenses, it would be questionable to believe that they wished to exclude from their plan all medical treatments except those which existed at the moment of their agreement. Excepting a contrary indication in the text, when a collective agreement uses a word or generic expression, it is incumbent upon an arbitrator to give it the most reasonable meaning which is in conformity with its normal usage.

The instant agreement deals, in Article 45, with the composition of the crews of ore trains. I can find nothing in the origins of the article, nor in its phrasing, which will support the position of the

Union, to the effect that an ore train can only be a train loaded with iron ore produced by the Company, or by the Wabush Company, for which it furnishes a transport service. I cannot conclude, for example, that if by chance the Company discovered copper in the region of Labrador City, and had to transport the copper ore from Labrador City to Sept-Iles that Articles 1.02 and 45 of the agreement would not apply. By the words of Article 45 and in particular the phrase "ore service train" the parties have agreed that a train composed only of cars dedicated to the transport of mineral products will have as crew at least one conductor and one brakeman, such as anticipated in Article 45.03. I am satisfied that coke breeze transported from Sept-Iles to Labrador City by the Company in these ore cars is an ore product within the general meaning of Article 45, and that the trains in question are ore trains, or, in accordance with the English version, "ore service trains".

For these reasons the grievance must be denied.

(Sgd.) MICHEL G. PICHER  
ARBITRATOR