CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1893

Heard at Montreal, Tuesday, 14 March 1989

Concerning

CP EXPRESS & TRANSPORT

And

TRANSPORTATION COMMUNICATIONS UNION

DISPUTE:

The failure of CP Express & Transport to pay for drops and hooks to mileage-rated drivers in Atlantic Canada.

JOINT STATEMENT OF ISSUE:

On November 23, 1987, a policy grievance was written to E. Murphy, Vice-President, CPET, Atlantic Canada, requesting payment for drops and hooks for the mileage-rated highway drivers in Atlantic Canada. This claim was based on their interpretation of Article 33 of the Collective Agreement. On February 15, 1988, Mr. Murphy declined the claim. Further discussions were held between the Union and the Company and further investigations were conducted by the Company resulting in a final letter from the Company, dated June 20, 1988, again declining the grievance.

The Union contends that the Collective Agreement is national in scope and covers employees in Atlantic Canada as well as all the others. This is supported by Article 3(a) on page M of the Special Atlantic Canada Agreement which states: "All other terms and conditions of the current Collective Agreement will apply to all present and future employees." The Union therefore contends that Article 33, which is headed "Mileage-Rated Highway Vehiclemen" should cover all mileage--rated drivers on an equal basis as there is no geographical distinction shown in Article 33.1 through 33.16 and 33.20 through 33.22.6, and drops and hooks have consistently been paid for under this Article to drivers in Western Canada. The Union further contends that the claim by the Company that the "Commodity Rate" section for the Atlantic Canada Agreement frees them from paying for drops and hooks, is not valid. The Union contends that this section applies only to the commodities and conditions shown in that section and it should not supersede the rules as laid down in Article 33 of the national Agreement. The Union further contends that this "Commodity Rate" section is outdated or obsolete.

The Company contends that linehaul drivers are not entitled to any additional compensation for drops and hooks without any elaboration.

The relief requested is for payment to mileage-rated highway drivers in Atlantic Canada, for drops and hooks, on the same basis as that paid to all other highway drivers and as is covered by Article 33 of

the Collective Agreement.

FOR THE UNION:	FOR THE COMPANY:
(SGD) J. J. BOYCE General Chairman System Board of Adjustment 517	(SGD) B. F. WEINERT for: Director, Labour Relations

There appeared on behalf of the Company:

M. D. Failes - Counsel, Toronto
B. F. Weinert - Manager, Labour Relations, Toronto
B. D. Neill - Vice-President, Human Resources, Toronto

And on behalf of the Union:

L. Chaley - Counsel, Toronto
J. J. Boyce - General Chairman, Toronto
M. Gauthier - Vice-General Chairman, Montreal

AWARD OF THE ARBITRATOR

The material establishes that the work in question is subject to a Special Agreement between the parties executed on September 21, 1983. That agreement had the effect, in part, of importing into the Collective Agreement certain provisions which had previously applied under the terms of a collective agreement negotiated by the predecessor employer, Moffatt Brothers Moving & Storage Ltd. That agreement provided for mileage-rated drivers. The language of that agreement was continued in the Special Agreement, Article 7 of which provides as follows:

> 7.0 Dropping full loads or pick up empty trailer or full loads will be covered in the mileage rate. No extra compensation for this function.

In the Arbitrator's view the particularity of the foregoing provision is a full answer to this grievance. On the material before me, and in light of the representations made by the parties in the presentation of CROA Case No. 1637, I must conclude that Articles 33.4 and 33.20 of the Collective Agreement, which the Union seeks to rely on in this case, were intended to apply specifically in Western Canada, and were not fashioned to govern the payment of employees in the Maritimes. The issue of the payment for drops and hooks for mileage-rated highway drivers in Atlantic Canada is specifically dealt with in Article 7.0 of the Special Agreement, which plainly provides that no extra compensation is payable.

For these reasons the grievance must be dismissed.

March 17, 1989 (Sgd.) MICHEL G. PICHER
ARBITRATOR