

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2120

Heard at Montreal, Tuesday, 12 March 1991

concerning

VIA RAIL CANADA INC.

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Claim for loss of earnings on behalf of Locomotive Engineers J.A. Garay and A.S. McCoy of Kamloops, B.C.

JOINT STATEMENT OF ISSUE:

On and/or about February 3, 1989, transcontinental train service west of Winnipeg was significantly disrupted due to weather conditions. These service disruptions included Train No. 3 which operated approximately 34 hours late ex Jasper, Alta. Normally, locomotive engineers operating Train No. 3 ex Jasper would have been relieved at Blue River by locomotive engineers home-terminalled at Kamloops and who had worked Train No. 4 ex Kamloops to Blue River. Train No. 4 was cancelled on February 3, 1989, therefore there were no relief locomotive engineers available to Blue River and the Jasper locomotive engineers operated Train No. 3 through to Kamloops.

It is the Brotherhood's position that the work entitlement is that of Kamloops based locomotive engineers under the provisions of Article 57 and that Messrs. Garay and McCoy have suffered a loss of earnings.

It is the Corporation's position that as the locomotive engineers operate in road service and run first-in first-out, the only penalty, if one is applicable, is provided for in Article 32.2.

FOR THE BROTHERHOOD:

FOR THE CORPORATION:

(SGD.) W. A. WRIGHT
ACTING GENERAL CHAIRMAN

(SGD.) C. C. MUGGERIDGE
DEPARTMENT DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Corporation:

K. Taylor	-- Senior Labour Relations Officer,
	Montreal
P. Gagn,	-- Observer - Crew Dispatcher, Montreal

And on behalf of the Brotherhood:

W. A. Wright
G. Hall,

-- Acting General Chairman, Kamloops
-- General Chairman, Quebec

AWARD OF THE ARBITRATOR

The Corporation seeks to justify its action on the basis that it was faced with an emergency. The Arbitrator has some difficulty with that submission. While it is true that inclement weather had occasioned serious delays in train movements between Jasper and Kamloops, it is clear that the situation had improved to the point at which the Corporation was able to call a crew to operate Train No. 3 out of Jasper to Blue River. Although there was no crew home-terminalled at Kamloops then present in Blue River to take over that movement, the calling time necessary to obtain the Jasper crew, in addition to the travel time from Jasper to Blue River, gave the Corporation a reasonable period of time to call the grievors at their home terminal at Kamloops and deadhead them to Blue River to be in a position to handle Train No. 3 from that point through to Kamloops.

The Arbitrator is satisfied that in these circumstances the grievors were not runaround, for the reasons reflected in CROA 501. They were, however, deprived of a work opportunity which should have been theirs under the terms of Article 57.3(a) of the Collective Agreement, whereby trains operating over territory entirely within the jurisdiction of a given home station are to be manned by employees from that station.

In the result, the grievance must be allowed. Engineers Garay and McCoy are to be compensated for their loss of earnings for the work lost, to a total of 346 miles. The sum payable to them must, of course, be adjusted by the amount, if any, paid to them in respect of the Corporation's position that they had been runaround.

March 15, 1991

(Sgd.) MICHEL G. PICHER
ARBITRATOR