

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2407

Heard at Montreal, Thursday, 14 October 1993

concerning

ONTARIO NORTHLAND RAILWAY

and

CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS [UNITED TRANSPORTATION UNION - CANADA]

DISPUTE:

A claim of compensation for bus operators required to fuel buses at points where there is no garage or personnel assigned to these duties.

JOINT STATEMENT OF ISSUE:

Bus operators of Crews 36 and 37 are required to fuel, service and clean their buses in Hearst and Cochrane. It is the contention of the Union that fueling of buses is an additional duty not covered under article 7.1(b) of the collective agreement and that the operators should receive fair compensation for this added duty. The Union requested that the allowance specified in article 7.1(b) be increased to 70 kms for Crews 36 and 37.

The Company denied the Union's claim. A resolution was not reached through the grievance procedure.

FOR THE UNION:

(SGD.) K. L. MARSHALL

GENERAL CHAIRMAN

There appeared on behalf of the Company:

M. J. Restoule

M. Bernardi

And on behalf of the Union:

Lloyd Marshall

P. Ross

FOR THE COMPANY:

(SGD.) P. A. DYMENT

DEPARTMENT DIRECTOR, LABOUR RELATIONS

- Manager, Labour Relations, North Bay

- Supervisor Bus Operations, North Bay

- General Chairperson, North Bay

- Local Chairperson, North Bay

AWARD OF THE ARBITRATOR

As reflected in the Joint Statement of Issue, the Union requests the Arbitrator to increase the allowance specified in article 7.1(b) of the collective agreement, from the present 40 kilometres to 70 kilometres for crews 36 and 37. The Arbitrator must agree with the submission of the Company that the relief sought is plainly beyond the jurisdiction of this Office. A board of arbitration, cannot, as a general rule, alter or amend the terms of a collective agreement. Where this Office is concerned, paragraph 12 of the Memorandum of Agreement establishing the Canadian Railway Office of Arbitration provides, in part:

The decision of the arbitrator shall not in any case add to, subtract from, modify, rescind or disregard any provision of the applicable collective agreement.

I must therefore find that the request made by the Union is beyond the Arbitrator's jurisdiction. Moreover, it may be noted that the fueling of buses has been part of the assignment of drivers for a substantial number of years, and must be taken be an aspect of service contemplated to be covered by the present formulation of article 7.1(b) and the 40 kilometre allowance there provided. Any change in respect of that provision must be a matter for negotiation, and not for arbitration.

October 15, 1993  
ARBITRATOR

(sgd.) MICHEL G. PICHER