CANADIAN RAILWAY OFFICE OF ARBITRATION
CASE NO. 2637
Heard in Montreal, Tuesday, 13 June 1995
concerning
QUEBEC NORTH SHORE & LABRADOR RAILWAY
and
United Transportation Union
DISPUTE:
Application of article 45.01 a) b).
JOINT STATEMENT OF ISSUE:

The Union claims that the Railway violated articles 45.01 a) and 45.01 b) when it abolished, on November 18, 1994, a brakeman's position assigned to handle mail, baggage and express on passenger trains.

The Railway allowed the grievance for the period November 22 to December 16, 1994 because the employees assigned to the passenger trains did effectively handle mail, baggage and express during that period. However, the Union requests, and the Railway refuses, that in the future a third brakeman will automatically be assigned to passenger trains. According to the Railway, the third brakeman is neither required nor needed to handle mail, baggage and express as anticipated in article 45.01.

FOR THE UNION: FOR THE COMPANY:
(SGD.) B. Arsenault (SGD.) A. Belliveau
General Chairman Manager, Employee Relations
There appeared on behalf of the Company:
R. Monette – Counsel, Montreal
A. Belliveau– Manager, Labour Relations, Sept-Iles
R. Côté– Labour Relations Specialist, Sept-Iles
M. Lamontagne – Superintendent Transportation, Customer Service, Sept-Iles
And on behalf of the Union:
R. Cleary – Counsel, Montreal
B. Arsenault– General Chairman, Sept-Iles
AWARD OF THE ARBITRATOR

It is not disputed that trainman no longer handle mail, baggage and express on passenger trains. The following notice to employees was posted December 15, 1994:

INDENT 1994 12 19
INDENT QNS&L Railway
INDENT Circular No. 100
INDENT Conductors, Engineers, Brakemen

INDENT Please take note that, effective immediately and until further notice, employees affected [sic] to passenger trains will not be required to handle baggage.

INDENT M. Lamontagne
INDENT Superintendent

It is clear, from the decision of this Office in CROA 801, that the Union cannot claim the assignment of a third brakeman unless the members of the crew are required to handle baggage. In that decision Arbitrator Weatherill stated:

INDENT The trains in question in this case are "Mixed Employee Specials" and "Wayfreights". Such trains leave Sept-Iles on Thursday as Wayfreights, and return to Sept-Iles on Friday as Mixed Employee Specials, carrying passengers. Their purpose is to

transport employees from on-line points to Sept-Iles for the weekend. Trains then leave Sept-Iles on Sunday as Mixed Employee Specials, returning the on-line employees to their working places. It would appear that such trains then return to Sept-Iles as Wayfreights.

INDENT The “Mixed Employee Special” carries passengers and is, whatever else it may be, a passenger train. It must, therefore, be manned in accordance with Article 45.01(a). The second sentence of that Article is as follows:

INDENT INDENT Passenger trains will have at least one (1) conductor and three (3) brakemen if required to handle mail, baggage and express.

INDENT That provision does not require that all passenger trains have three brakemen. That requirement only arises where three brakemen are “required to handle mail, baggage and express”. It would appear that in the past three brakemen were assigned to such trains. When the number of brakemen was reduced to two, the present grievance was filed.

INDENT Whatever the history of the matter may have been, the Company need not assign more than two brakemen to a passenger train where mail, baggage and express is not handled. It is the Company’s position that the crews of the trains in question are not required to handle mail, baggage or express. The Union points out that baggage and other items are transported on such trains. That is no doubt the case, but such items are carried by the passengers themselves. Larger items may be carried on the Wayfreight, but that is not a passenger train. On the Mixed Employee Specials, the passengers carry their own goods and baggage. Thus, Article 45.01(a) does not require that such a passenger train have three brakemen.

Counsel for the Union claims that the train crew’s duties relative to the loading and unloading of baggage, as for example opening the doors to the baggage car as well as updating the register of baggage carried, constitutes in itself the handling of baggage in the sense of article 45.01 a). He further raises article 45.01 b). These articles read as follows:

INDENT 45.01 a) 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.

INDENT 45.01 b) Brakemen shall man train baggageman positions and may be used to handle baggage, mail and express.

The Arbitrator cannot accept the claim of the Union. It should firstly be noted that le Petit Larousse de 1988 gives, in part, the following definition of “handling”:

INDENT Handling of merchandise, its storage, packaging and shipping [translation]

In my view, the purpose of article 45.01 b) is simply to give to brakemen the right to handle baggage, a task normally assigned to members of another bargaining unit in the railway industry in Canada. That article cannot therefore be seen as other than a general directive that brakemen are to handle baggage. Further, given the definition of the word “handling” and the decision in CROA 801, in respect of the work of a trainman the verb “to handle” must, it seems to me, imply a manual labour, such as the loading, sorting or unloading of baggage. The updating of registers, the ticketing of articles and the control of the car

doors does not constitute, of itself, the handling of baggage in the sense of article 45.01 of the collective agreement.

For these reasons the grievance must be dismissed.

June 16, 1995 (signed) MICHEL G. PICHER
ARBITRATOR