CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1725

Heard at Montreal, Tuesday December 8, 1987

Concerning

QUEBEC NORTH SHORE & LABRADOR RAILWAY

And

UNITED TRANSPORTATION UNION

DISPUTE:

Switching power at Ross Bay Junction.

JOINT STATEMENT OF ISSUE:

The Union grieves that the Yard Crew, L. Yates, Engineman, H. Ross, Conductor and C. Barnes, Brakeman, should have been used to take Locomotive 241 to Ross Bay Junction.

The Railway contends that placing Locomotive 241 on the FCS -24 to be set out at Ross Bay Junction for the wayfreight is in accordance with the contract and payment to a yard crew for a return trip to Ross Bay Junction was denied.

FOR THE UNION:	FOR THE COMPANY:
(SGD) JACQUES ROY	(SGD) A. BELLIVEAU
GENERAL CHAIRMAN	SUPERINTENDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

D. Manzo	– Counsel, Montreal
L. Lagac	– Superintendent, Labour Relations, Sept-Iles
D. Thomas	– Trainmaster, Sept-Iles
J. Y. Nadeau	– Superintendent Transportation, Sept-Iles
K. D. Turriff	– Superintendent Maintenance of Equipment
P. Caouette	– Counsel, Montreal

And on behalf of the Union:

R. Cleary	– Counsel, Montreal

AWARD OF THE ARBITRATOR

The facts are not disputed. Two locomotives provide sufficient motive power to pull a train from Labrador City through Ross Bay Junction and on to Sept- Iles. Because of an unforeseen eventuality the Company found itself with a third locomotive in Labrador City which it wished to utilize in Ross Bay Junction. The unit in question, Locomotive 241, was then placed at the head of Train FCS-24 and was used to pull the train, along with the two other locomotives, to Ross Bay Junction, where it was then set off.

The Union contends that the above use of the locomotive and its setting off at Ross Bay Junction changed the character of the train so that it could no longer be treated as a through freight for the purposes of the Collective Agreement.

A similar circumstance, involving the same parties, fell to be considered in **CROA No. 799**. In that instance a through freight train was operating from Sept-Iles to Labrador City. Because of the uphill grade on the initial part of the trip an additional locomotive was utilized, thereafter being set off at Ross Bay Junction. Under the terms of Letter of Understanding No. 53, yard service crews employed in Labrador City "will not man ore and through freight trains to Ross Bay Junction whose consist make-up requires no switching en route". The Union argued that the setting off of the additional locomotive at Ross Bay Junction removed the train from the classification "through freight trains". That argument was rejected by the Arbitrator who reasoned, in part, as follows:

> With respect, what is set out in Senator Goldenberg's award, and now appears in the general provision of Letter of Understanding No. 53 is not really a definition of the term "through freight trains" but a qualification thereof. This was, of course, responsive to the arguments and concerns of the parties put before the Arbitrator at that time. In this connection, reference may be made to the definition of "run-through train" set out by the Association of American Railroads in its Rules of Order, Principles and Practices. Such a definition, while not binding on this case, is of interest:
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> > a run-through train (and a through freight train is, in my view, to be considered a run-through train), is one "Consisting of a solid block of cars handled through a junction point, under an operating agreement, without a scheduled stop other than for any necessary change in power or crew". What is of concern here, of course, is whether or not a change of power, as by the setting-off of unnecessary locomotives, transforms what would otherwise be a through freight train into one which is not.
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> In my view, the particular qualification set out in Letter of Understanding No. 53, that the "Consist make-up" of a through freight train require no switching en route to be read having regard to the evident purpose of the qualification, namely to ensure that the train's character as a "through freight" be respected, and that the setting-off or picking-up of freight en route not be permitted - or if performed, be performed by appropriate crews. Such a view is consistent with what is set out in those passages of Senator Goldenberg's award which are before me, and which explain the concerns of the parties as the time as to the nature of the trains and their loads. While in one sense a train "consist" means the total complement of cars and engines at any given moment, it is my view that the phrase "consist make-up" as it appears in Letter of Understanding No. 53 is used to ensure the integrity of the "ore" or "through freight" nature of the operation and does not require the operation of unnecessary power or inhibit its being set off en route. It does not require an unalterable power consist.
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> For the foregoing reasons, I conclude that there is no violation of Letter of Understanding No. 53 where excess power is set off at Ross Bay Junction. Accordingly, the grievance is dismissed.

In the Arbitrator's view the foregoing passage is instructive to the resolution of the instant grievance. While it is true that the Company need not have utilized the power of Locomotive 241 to pull Train FCS-24 from Labrador City to Ross Bay Junction, the fact remains that it did so. Moreover, even if it is considered unnecessary power, there is nothing within the Collective Agreement or Letter of Understanding No. 53 to limit the Company's prerogative in that regard. On the contrary, it was plainly the intention of Senator Goldberg that the Company could make alterations to a power consist without being taken to have changed the consist make-up of a through freight train to the prejudice of crews at Labrador City. On this basis I must conclude that no violation of the Collective Agreement is disclosed and the grievance must be dismissed.

(sgd.) MICHEL G. PICHER
ARBITRATOR