

	October 23 rd , 2020	TYPE:	Information	NUMBER:	LR-025-20
SUBJECT:	Conductor Only Initial Terminal Arbitration Ruling – TCRC Canada				

DETAILS

Attention – Canadian TCRC T&E Employees

Four disputes relating to Conductor Only Freight crew work restrictions were resolved by an Arbitration Hearing held on October 16th, 2020.

The Arbitration Awards are summarized below. The complete Awards are appended.

You must ensure that no claims are submitted that are contrary to the rulings in the awards.

The four awards answer the following questions:

Question 1: *Can the Company Require a Conductor Only Freight Crew to Yard another train prior to departing the initial Terminal with their own train?*

Answer: No, however, in the event this occurs in the future, the Locomotive Engineer and the Conductor on the Conductor Only crew will be entitled to 100 miles each (chargeable to the employee's personal miles). In addition, 100 miles (not chargeable to the employee's personal miles) will be paid the affected brakeman who should have been called in respect of this work or in the circumstances where a Brakeman is not available, the next qualified employee. If these circumstances apply, to you may enter an IP Claim with all pertinent details and with reference to "Q&A 1 of Bulletin LR-025-20".

Question 2: *Can the Company Require a Conductor Only Freight Crew to make a set off from their train prior to departing the initial Terminal.*

Answer: Yes, subject to the August 1992 Letter (page 229 of the Collective Agreement) and its application i.e. provided this does not involve the transfer of cars between yards at the Initial Terminal.

Question 3: *Can the Company Require a Conductor Only Freight Crew to lift cars at the Initial Terminal and also later require that they set off those cars prior to departing the Initial Terminal?*

Answer: In general, no. However, there may be exceptional circumstances beyond the Company's control, such as extreme weather, as one example, which could not be foreseen at time of call, where it is necessary to set off cars prior to departure, in which case the Collective Agreement is not violated. Note that references to exceptional and circumstances outside of the Company's control, can be found in Articles 18, 47, 73.02, TCS Q&As, etc. of the Collective Agreement.

In the event this occurs in the future (only where the exception did not apply) the Locomotive Engineer and the Conductor on the Conductor Only crew will be entitled to 100 miles each (chargeable to the employee's personal miles). In addition, 100 miles (not chargeable to the employee's personal miles) will be paid the affected brakeman who should have been called in respect of this work or in the circumstances where a Brakeman is not available, the next qualified employee. If these circumstances apply to you may enter an IP Claim with all pertinent details and with reference to "Q&A 3 of Bulletin LR-025-20".

Question 4: *Can the Company Require a Conductor Only Freight Crew set off Bad Order car(s) at a location that is at the discretion of the Company within the Initial Terminal?*

Answer: Yes, the crew may be asked to set off the Bad Order cars anywhere within the Initial Terminal.

All employees are reminded of their responsibility under the Honour System to ensure that their wage claims are submitted accurately.

You are your own timekeeper. You are responsible for your timeslips (even if submitted by a fellow employee).

You must make every effort to understand and apply your Collective Agreement, Method of Pay, Instructional Bulletins, and Local Rules correctly.

Labour Relations
Canadian Pacific

Appendix 1: Dispute 1A

In the matter of an arbitration

Between:

Canadian Pacific Railway Company

and

Teamsters Canada Rail Conference

(Grievances re: Conductor Only Provisions of the Collective Agreement –

Initial Terminal- Dispute 1A)

Before: William Kaplan
Sole Arbitrator

Appearances

For CP: John Bairaktaris
David Guerin
Dave Pezzaniti
Labour Relations,, Canadian Pacific

For the Union: Michael Church
Ken Stuebing
Caley Wray
Barristers & Solicitors

The matters in dispute proceeded by Zoom on October 16, 2020.

Award

Grievance 1A

At issue in this case is whether the company can require a Conductor Only freight crew to Yard another train prior to departing the initial terminal with their own train. Both parties filed detailed briefs and the case proceeded to a hearing by Zoom on October 16, 2020. The answer to this question is no: this is precluded by article 67.02. The remedy for this breach is that the affected Conductor Only crew members to be paid 75 miles. Should there be future breaches of this type, the company shall pay 100 chargeable miles for the Conductor Only crew members who perform the work and 100 non-chargeable miles for:

1. The affected Brakeman who should have been called in respect of this work, or in circumstances where a Brakeman is not available;
2. The next available qualified employee.

This award is intended to provide guidance for both past disputes, including those in abeyance, and future disputes. I remain seized with respect to the implementation of this award.

DATED at Toronto this 19th day of October 2020.

"William Kaplan"

William Kaplan, Sole Arbitrator

Appendix 2: Dispute 1B

In the matter of an arbitration

Between:

Canadian Pacific Railway Company

and

Teamsters Canada Rail Conference

(Grievances re: Conductor Only Provisions of the Collective Agreement -

Initial Terminal- Dispute 1B)

Before: William Kaplan
Sole Arbitrator

Appearances

For CP: John Bairaktaris
David Guerin
Dave Pezzaniti
Labour Relations,, Canadian Pacific

For the Union: Michael Church
Ken Stuebing
Caley Wray
Barristers & Solicitors

The matters in dispute proceeded by Zoom on October 16, 2020.

Award

Grievance 1B

The matter to be decided in this case is whether the company can require a Conductor Only freight crew to make a set off from their train prior to departing from the initial terminal. Both parties filed detailed briefs and the matter proceeded to a hearing by Zoom on October 16, 2020. Article 67.02 of the collective agreement is engaged. The answer to the question is yes subject to the Letter re: Conductor Only Final Terminal dated August 31, 1992 and its application, both east and west (CA at page 229). The company has furthermore confirmed its commitment to abide by its terms.

This award is intended to provide guidance for both past disputes, including those in abeyance, and future disputes. I remain seized with respect to the implementation of this award.

DATED at Toronto this 19th day of October 2020.

"William Kaplan"

William Kaplan, Sole Arbitrator

Appendix 3: Dispute 1C

In the matter of an arbitration

Between:

Canadian Pacific Railway Company

and

Teamsters Canada Rail Conference

(Grievances re: Conductor Only Provisions of the Collective Agreement –

Initial Terminal- Dispute 1C)

Before: William Kaplan
Sole Arbitrator

Appearances

For CP: John Bairaktaris
David Guerin
Dave Pezzaniti
Labour Relations,, Canadian Pacific

For the Union: Michael Church
Ken Stuebing
Caley Wray
Barristers & Solicitors

The matters in dispute proceeded by Zoom on October 16, 2020.

Award

Grievance 1C

At issue in this case is whether the company can require a Conductor Only freight crew to lift cars at the initial terminal and also later require that they set off those cars prior to departing the initial terminal. Both parties filed detailed written briefs and the case proceeded to a hearing by Zoom on October 16, 2020.

This case engages Article 67.02 of the collective agreement. Given that provision, the answer to this question is, in general, no. However, there may be circumstances such as extreme weather – which could not be foreseen at time of call – where it is necessary to set off cars prior to a departure in which case Article 67.02 would not be violated. Absent such exceptional circumstances beyond the company's control, however, and to be assessed on a case-by-case basis, Article 67.02 precludes this. Should it be found in this case that there were no exceptional circumstances, the affected Conductor Only crew to be paid 75 chargeable miles. Should it be found in the future that there was a breach of Article 67.02 – i.e., no exceptional circumstances – the company shall pay 100 chargeable miles for both the Conductor Only crew members who performed the work and 100 non-chargeable miles to;

1. The affected CTY employee who should be called as a Trainman in respect of the work or, in circumstances where a CTY is not available;
2. The next available qualified employee.

This award is intended to provide guidance for both past disputes, including those in abeyance, and future disputes. I remain seized with respect to the implementation of this award.

DATED at Toronto this 19th day of October 2020.

"William Kaplan"

William Kaplan, Sole Arbitrator

Appendix 4: Dispute 1D

In the matter of an arbitration

Between:

Canadian Pacific Railway Company

and

Teamsters Canada Rail Conference

(Grievances re: Conductor Only Provisions of the Collective Agreement –

Initial Terminal- Dispute 1D)

Before: William Kaplan
Sole Arbitrator

Appearances

For CP: John Bairaktaris
David Guerin
Dave Pezzaniti
Labour Relations,, Canadian Pacific

For the Union: Michael Church
Ken Stuebing
Caley Wray
Barristers & Solicitors

The matters in dispute proceeded by Zoom on October 16, 2020.

Award

Grievance 1D

At issue in this case is whether the company can require a Conductor Only freight crew to set off a Bad Order car(s) at a location that is at the discretion of the company within the initial terminal. Both parties filed detailed written briefs and the case proceeded to a hearing by Zoom on October 16, 2020. This case engages Article 67.02 of the collective agreement. Given that provision, the answer to this question is yes provided that is verifiably a Bad Order car(s) and that the setting off of such is within the initial terminal.

This award is intended to provide guidance for both past disputes, including those in abeyance, and future disputes. I remain seized with respect to the implementation of this award.

DATED at Toronto this 19th day of October 2020.

"William Kaplan"

William Kaplan, Sole Arbitrator