

CONVENTIONAL 3 PERSON ROAD SWITCHER REDUCED TO CONDUCTOR-ONLY

CANADIAN RAILWAY OFFICE OF ARBITRATION & DISPUTE RESOLUTION CASE NO. 4555

Heard in Calgary, May 10, 2017

This dispute derives from the Company running reduced crews when Road Switcher and/or Yard Assignments are bulletined with 3 employees. Bulletined Assignments consisting of a Locomotive Engineer, Conductor and Trainman OR Locomotive Engineer, Foreman and Helper are being run absent the Trainman/Helper.”

*The issue relates to the operation of the Yard Crew and Road Switcher assignments in Hamilton or Welland when the regularly assigned trainman is not available and a replacement employee to fill the vacancy cannot be located, or is not needed. When Yard Crew or Road Switchers are operating with a reduced crew of two employees, **the reduced crew are paid the premiums contained in article 10 of the collective agreement for operating as “conductor only”**. There is no dispute that the territory in question has been designated as a “conductor only” territory.*

*The point of the Company of the need to maintain customer service is a well- placed concern but not one which should undermine the bargained rights of employees such as the yard persons. **That is not to say that emergency circumstances will not arise where a manpower reduction is required. But those situations, as past practice has shown, used to occur only in emergency situations and not on an ongoing basis as the Union alleges is occurring today.***

*The grievance succeeds to the extent that the arbitrator finds and declares a breach of article 51.01. I direct the parties to meet with a view to identifying and discussing assignment issues in the Welland, Hamilton and other areas where the crew assignments are changed with little or no notice from three employees to conductor-only assignments. The focus of the meetings would be to address the Yard Crew assignments in those areas with a view to decreasing occasions where sudden reductions in three crew assignments to conductor-only assignments are taking place. I would also urge the parties to concurrently address similar concerns that have surfaced in the Road Switcher assignments. **It is understood from previous experience that emergency circumstances do occur when conductor-only assignments are operationally necessary, but such occasions should be the exception and not the rule.***

CONDUCTOR-ONLY ROAD SWITCHER INITIAL AND FINAL TIME

Road Switchers are paid hourly from start to finish, as evident in the article below. Conductor only provisions do not change the conditions of Road Switcher service, they do however allow for the claiming of Conductor-Only Premium Payments, as a result you are not paid initial and final time.

ARTICLE 76 - ROAD SWITCHER SERVICE

76.03 WEST APPLICATION - Trainpersons assigned to Road Switcher Service will perform all service required and may be run in and out and through their assigned home terminal or any other terminal without regard for rules defining completion of trips, but will not be run off their promotion territories, **time to be computed continuously from time required to report for duty until released from duty at home terminal.**

76.06 WEST APPLICATION - Members of a crew may be used individually for service incidental to their own train prior to departure from and/or after arrival at the terminal. **When switching is performed not less than three of a crew will be used except as provided in Articles 66 and 67.** Switching does not include movement of locomotive to or from shop or tie-up track. Trainpersons used individually for service at the end of the day will submit their own wages ticket.

CONDUCTOR ONLY PREMIUM PAYMENTS

The reduced crew are paid the premiums contained in article 10 of the collective agreement for operating as "conductor only"

ARTICLE 67 - CONDUCTOR-ONLY OPERATION IN FREIGHT SERVICE

(2) INITIAL TERMINAL

- Where yard crews are employed a Conductor-Only crew is restricted to performing switching on their own train at the initial terminal. Such yard crews need not actually be on duty to constitute such prohibition. Where road switchers are paid under yard rates and conditions, they are considered to be yard crews for the purpose of this clause.
- Conductor-Only crews performing switching at the initial terminal or required to pickup a car or block of cars within the terminal, at the originating yard or to make one stop at another yard enroute to departure from the initial terminal to pick up a car or block of cars will receive the Conductor-Only premium payment.
- A Conductor-Only crew required to perform any combination of the above at one or more locations within the terminal will be compensated on the minute basis from the time the crew commences such work until such time as the train is together for final departure, with a minimum payment of one hour. This work is not a stop enroute.
- Where no yard crews are employed a Conductor-Only crew may perform other switching as necessary at initial terminals.

Note: The application of the foregoing will not result in the reduction of assignments. The effects of the application will be tracked and recorded for the purpose of gauging the effect on Trainpersons. When the effect equals an immediate and/or ongoing job loss based on monthly mileage, each job loss will result in a severance opportunity, bridging or early retirement using the formula outlined in Clause 5. For the purpose of calculating any impact of this provision, a benchmark is established upon implementation.

(4) FINAL TERMINAL

- A Conductor-Only crew is limited to doubling their train at the destination yard to the extent necessary to yard the train upon arrival because a yard track(s) is of insufficient length to hold the entire train.
- A Conductor-Only crew may be required to set-off a car or block of cars at the destination yard at the final terminal or at another yard within the final terminal enroute to the destination yard. This will not be considered as a stop enroute.

(5) Notwithstanding the provisions of (4) above, a Conductor-Only crew is restricted to performing switching on its own train at the final terminal. However, this would not be a common occurrence, it will be the exception rather than the rule.

(6) The Conductor-Only crew will be required to marshall the train to conform with the requirement of the rules and special instructions governing the marshalling of trains, as a consequence of the set-off of a bad order car, the pick-up or set-off of cars as contemplated in this Clause 2 or the discovery of a marshalling violation.

(7) In respect to their own train;

- the set-off of a bad order car(s) enroute or in the terminal;
- the lift of a bad order car(s) after being repaired in the terminal;
- the handling of diesel units, including robotizing and conventionalizing;
- doubling at the initial terminal to the extent necessary to assemble the train for departure because yard track(s) is of insufficient length to hold the fully assembled train; or
- the handling of an SBU; shall not be considered a set-off, pick-up or switching pursuant to Clause 2, sub Clauses 2), 3), 4), 5) and will not result in a Conductor-Only premium payment.



**CANADIAN
PACIFIC**

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March 28, 2014

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Dear Sirs,

This has reference to ongoing discussions between the parties with respect to the application of Conductor Only provisions for crews operating in Road Switcher service. Due to the varying degrees of misapplication/claims by both management teams and employees it was necessary to conduct an internal review into the current application of Conductor Only as the Collective Agreement provisions apply to Road Switcher. Clearly both the Union and the Company want to ensure that the agreement provisions are complied with and that our employees are compensated correctly.

As you are aware the review of applicable Collective Agreement provisions has been completed and discussed with you. As a result of our discussions, we agree that Conductor-Only premiums are applicable under specific circumstances and scenarios; such as those appended hereto. We also agree that Conductor Only Road Switcher crews cannot work exclusively within yard/switching limits during an entire shift. As committed the Company will ensure that the agreed upon application will be applied as outlined on page 2, hereto.

During our discussions the Company advised that in order to ensure employees were correctly compensated when performing Conductor Only Road Switcher service that it was necessary to temporarily suspend the payment of these provisions until we completed our review. This will confirm that as a result of this understanding, the Company will resolve any active grievance/claims that reflect the resolution of this issue.

The Company will commence reviewing active claims/grievances and where applicable place in line for payment within fourteen business days. The Company commits to provide your offices with a detailed list of the matters addressed and will be available to review the list(s) at your earliest convenience.

Sincerely,

David E. Guerin
Director, Labour Relations

Road Switchers	Work performed	Compensation	Article
Conventional three person Road Switcher	Complete tour of duty is performed exclusively <u>within yard/switching limits.</u>	Paid yard rates and yard conditions apply.	CTY - 10.02(2)(a) LE - 8
Conventional three person Road Switcher	Works within an area of 30 main track miles from the OMTS or designated point in any direction from initial starting point.	Paid Road Switcher rates and applicable conditions.	CTY - 19 LE - 8
Conductor Only Road Switcher	Where <u>yard crews are not employed</u> in a terminal a Conductor Only crew can perform other switching as necessary at terminals.	Entitled to CT payment from the time such work commences until such time as train is assembled for final departure. Crew may also be eligible for up to 3 EC payments and may be required to perform work at up to 5 stops enroute. Entitled to CT payment if required to perform work in yard on return from road work and/or prior to final yarding of train.	CTY -10.02(3)(a,b) 10.02(2)(a,b,c) LE - 2.23, 3.02
Conductor Only Road Switcher	Where <u>yard crews are employed</u> in a terminal – at initial terminal the Conductor Only Road Switcher is restricted to performing switching on their own train.	Entitled to CT payment from the time such work commences until their train is together for final departure. Crew may also be eligible for up to 3 EC payments and may be required to perform work at up to 5 stops enroute. Entitled to CT payment if required to perform work in yard on return from road work and/or prior to final yarding of train.	CTY -10.02(3)(a,b), 10.02(2)(a,b,c) LE - 2.23, 3.02