

In the matter of an arbitration

Between:

Canadian Pacific Railway Company

and

Teamsters Canada Rail Conference

**(Supplemental Award: Re: Conductor Only Provisions of the Collective
Agreement - Initial Terminal - Dispute 1B)**

Before: William Kaplan
Sole Arbitrator

Appearances

For CP: John Bairaktaris
Labour Relations
Canadian Pacific

For the Union: Ken Stuebing
Caley Wray
Barristers & Solicitors

This matter proceeded by written submissions.

Supplemental Award

On October 16, 2020, a number of matters proceeded to a hearing and awards were issued on October 19, 2020. An interpretation dispute subsequently arose in respect of one of the awards, and the parties asked that it be determined by written submissions.

In brief, one of the particular matters that first went to hearing was 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. The answer to that question, as set out in the award, was yes, but subject to the *Letter re: Conductor Only Final Terminal* dated August 31, 1992.

The relevant portion of the “*Letter*”, which was a letter to the union, referring to a Memorandum of Settlement, and now incorporated into the collective agreement, is as follows:

You were concerned that these provisions could be interpreted to permit the transfer of cars between yards in a terminal and accordingly, the words “set off” or “pick up” were not included in Articles 2*b)(ii) or 2(d)(ii) respectively.

You did agree, however, that notwithstanding the absence of these words, conductor-only crews would continue the present practice of picking up a car or block of cars at a yard within a final terminal en route to the destination yard provided that such cars would be continuing through on that train, as is now the practice at Toronto and Montreal. A car or block of cars arriving on a thorough train, at Toronto and Montreal, could similarly be handled by a Conductor-only crew from the originating yard and set off at another yard within the initial terminal during the departure move from that train.

Decision

The award was anchored by the *Letter*. It notes that the words “set off” and “pick up” were not present in the relevant provisions of the collective agreement. It then went on to provide – even though these words were absent – that Conductor Only crews could continue to do two things:

1. A Conductor Only Crew could pick up a car or block of cars at a yard within a final terminal en route to the destination yard provided that the cars continued on the train. Conductor Only crews could not be deployed to move a car or cars around a yard or terminal, but to pick up a car or cars with the proviso that they were continuing through with the train.
2. A Conductor Only Crew could set off a car or block of cars at another yard within the initial terminal during the departure move.

It is clear that this *Letter* makes sense from an efficiency perspective – to allow the outgoing crew to take a car or cars to the next yard within the terminal on their departure from the terminal – but it is also clear that the set off of cars cannot be within the same yard but must be “at another yard within the initial terminal....” If it is a one-yard terminal, the exception in the *Letter* cannot, given this language, apply. To conclude otherwise would be to strip these quoted words of any meaning.

Conclusion

At the request of the parties, I continue to remain seized with respect to the implementation of my award.

DATED at Toronto this 26th day of November 2020.

“William Kaplan”

William Kaplan, Sole Arbitrator