



# BROTHERHOOD OF LOCOMOTIVE ENGINEERS & TRAINMEN

*GENERAL COMMITTEE OF ADJUSTMENT –  
Canadian National/Wisconsin Central Ltd - Fox Valley & Western Ltd*

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December 1, 2011

Mr. T. E. Rice, Director  
CN Labor Relations  
17641 S. Ashland Ave.  
Homewood, IL 60430

Re: Issues Involving Transport and Lodging of Away Crews at Chicago

Dear Sir,

A dispute currently exists between the Parties regarding the proper application of the Agreement to situations where away crews at Chicago are not being properly compensated in instances where their travel time between the lodging facility and their purported on/off duty location exceeds thirty (30) minutes, crews are required to perform covered service at the lodging facility or enroute to or from the purported on/off duty point, and/or crews are not provided lodging within 30 minutes of going off duty. Intertwined with this issue is the Carrier's failure to afford away crews at Chicago a two hour call. We have attempted to resolve this matter with the local supervision and Manager Mandalas without success. Attached please find various e-mails between us illustrating the dialogue thus far.

Article 5(A) clearly states that engineers will be compensated for **all time on duty**:

“Effective the dates shown in this Article, the rate of pay for Engineers, including those operating remote control locomotives or other technology. This rate will apply to **all time on duty** unless otherwise specified in the Agreement.

- i) Effective April 1, 2005, the rate of pay for Engineers will be \$29.08 per hour. This rate will apply to **all time on duty**, unless otherwise specified in the Agreement.

- ii) Effective April 1, 2006, the rate of pay for Engineers will be \$30.15 per hour. This rate will apply to **all time on duty**, unless otherwise specified in the Agreement.
- iii) Effective April 1, 2007, the rate of pay for Engineers will be \$31.23 per hour. This rate will apply to **all time on duty**, unless otherwise specified in the Agreement.
- iv) Effective April 1, 2008, the rate of pay for Engineers will be \$32.31 per hour. This rate will apply to **all time on duty**, unless otherwise specified in the Agreement.
- v) Effective April 1, 2009, the rate of pay for Engineers will be \$33.38 per hour. This rate will apply to **all time on duty**, unless otherwise specified in the Agreement.
- vi) Effective April 1, 2010, the rate of pay for Engineers will be \$34.46 per hour. This rate will apply to **all time on duty**, unless otherwise specified in the Agreement.” (Emphasis added)

This is not being complied with by the Carrier in instances where the time an engineer spends being transported to or from the purported on/off duty point exceeds thirty (30) minutes and is converted to other than rest under FRA’s “thirty (30) minute rule.”

Article 5(B) states engineers will be paid time and one half for all service performed after ten hours.

“Ten (10) hours or less will constitute a basic day and pay for all service performed after ten (10) hours will be at the rate of time and one half.”

This is not being complied with by the Carrier in instances where the time an engineer spends being transported from the purported off duty point to the lodging facility exceeds thirty (30) minutes and is converted to other than rest under FRA’s “thirty (30) minute rule.” This is also not being complied with in instances where a room is not made available to the employee pursuant to the thirty (30) minute rule, which also serves to convert the time spent waiting to other than rest.

Article 16(A) states engineers will have designated points for going on and off duty each day:

“Except as provided below, Engineers shall have (a) designated point(s) for going on and off duty each day. The Company will consult with the Union prior to bulletining positions where it is proposed to change any On-Duty points.”

This is not being complied with by the Carrier. If your job bulletin designates Markham as your *designated point(s) for going on and off duty each day*, then the Rule requires that

you go on duty at Markham, not Joliet, or Kirk, or Munger, or Leithton or a hotel, or any other myriad of places. The Carrier obviously desires the flexibility to change, on a daily basis, the *designated point(s) for going on and off duty each day*; however, given the Rule's limitation that the "...*Company will consult with the Union prior to bulletining positions where it is proposed to change any On-Duty points,*" Carrier does not now have that right.

Article 16(B) is quite self explanatory:

"The starting time of an Engineer shall commence at the time he is required to report for duty, and his pay shall continue until the time he is tied up."

Obviously, if an engineer is deemed to have reported for duty at the hotel, that is the point at which his pay begins. Conversely, when an engineer's tie up time is adjusted to reflect excessive travel time to the hotel that is the point in time where his pay ends.

Article 17, Section 1(A) refers to engineers receiving not less than 2 hour calls prior to the time required to report to duty:

An Engineer without a designated starting time shall be called not less than two (2) hours prior to the time required to report for duty, except in cases of emergency, such as floods, accidents, storms, etc., where Engineers shall be required to report as soon as possible.


This is not being complied with by the Carrier. If an engineer is called and told to be in a cab at 0200, but will not be considered on duty till 0230, to go to a train that is at, e.g., Turner, West Chicago, 68th Street, Sutton or any other point where there is no place to receive the proper paperwork or to check for proper and up-dated bulletins as required by CN rules, they must do this at the hotel were engineers have the proper resources do this. Once they perform these duties at the hotel, this is when their on duty time must start as they are on duty and performing service for the Carrier. Thus, where circumstances require an engineer to perform service at the lodging facility, that is where his time on duty must begin, not the point at which it is estimated he will board a train, and his call must be made "...*not less than two (2) hours prior to the time required to report for duty.*"

With respect to Mr. Mandalas' assertion that "...the Company is not financially liable for anything mandated by FRA," we disagree. While FRA is not a party to our Agreement, its characterization of rest and service can certainly shed light on the intent and meaning of our Agreement. On point with this matter is Award 269 of PLB 6312 (Rinaldo), attached, which involved a case where another carrier, which was under a contractual obligation to provide "suitable lodging" at the away from home terminal, did not furnish an employee lodging until one hour, fifteen minutes after going off duty by that carrier's measure. Arbitrator Rinaldo considered the FRA's "thirty minute rule" in that case to interpret that carrier's obligation to provide "suitable lodging" as including an obligation

to provide lodging within a reasonable period of time, which was deemed to be the thirty minutes established by the FRA thirty minute rule. Likewise, where FRA deems employees under our jurisdiction to be on duty performing covered service, or not on rest, they are on duty as contemplated by the Agreement, and must be compensated for that time.

The violations of the CBA described above are occurring on a daily basis and must cease. Pursuant to Section Two, *Sixth* of the RLA, as amended, we request a meeting to discuss this dispute. We are agreeable to addressing this following our ADR sessions currently scheduled for December 20 and 21, 2011.

Sincerely,

A handwritten signature in cursive script, appearing to read "John W. Reynolds".

John W. Reynolds  
General Chairman – CN/WC, BLET

Cc: M. Ruef – BLET-VP  
E. Hau – FVC  
D. Mandalas – Manager, Labor Relations