

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 369

Heard at Montreal, Tuesday, July 11th, 1972

Concerning

CANADIAN PACIFIC LIMITED

and

**TRANSPORTATION – COMMUNICATION DIVISION OF
BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS,
FREIGHT HANDERS, EXPRESS AND STATION EMPLOYEES**

DISPUTE:

Claim of Mr. D.G. Kollesavich for away-from-home allowance pursuant to Article 27.4(f) of the Collective Agreement.

JOINT STATEMENT OF ISSUE:

On July 6th, 1971, from the Office of the Superintendent at Brandon, Manitoba, Bulletin No. M-15 was distributed to all employees on the Manitoba District Seniority List, represented by Transportation – Communication Division, BRAC, System Division No. 7, to expedite the implementation of a Customer Service Centre on the Brandon Division to be located at Brandon, Manitoba.

The bulletin outlined the positions that would remain subsequent to the implementation and included two positions advertised as Relief Dispatch Operator, Brandon Division. One of these positions was awarded to Mr. D.G. Kollesavich, who, prior to the change, was Agent-Operator, Rapid City, Manitoba and senior Spare Dispatcher, Brandon Division.

Mr. Kollesavich retained his residency at Rapid City and subsequently made claim for the \$4.00 away-from-home allowance pursuant to Article 27.4(f) on the basis that under Article 6.2(b) of the Collective Agreement his headquarters point was Rapid City.

The Company denied the claim on the basis that the position held by Mr. Kollesavich was an established position and under Article 27.4(b) his headquarters point was Brandon.

FOR THE EMPLOYEES:

(SGD.) R. J. CRANCH
SYSTEM GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) W. J. PRESLEY
GENERAL MANAGER, OPERATIONS & MAINTENANCE

There appeared on behalf of the Company:

D. V. Brazier – Labour Relations Officer, Montreal
J. A. Sampson – Special Representative, Winnipeg
J. A. McGuire – Manager Labour Relations, Montreal

And on behalf of the Brotherhood:

R. J. Cranch – System General Chairman, Montreal
R. C. Smith – Vice-President, Montreal
R. Eyes – General Chairman (Air), Vancouver

AWARD OF THE ARBITRATOR

Article 27.4(f) of the collective agreement provides as follows

- (f) In circumstances not covered by paragraphs (c), (d) and (e), the following allowance will be granted:

If an employee, while occupying a relief position is unable to return to his headquarters on any day, he shall be granted an allowance of \$4.00 for each such day; or in lieu thereof if an employee desires to travel by his automobile between the work point and his headquarters, he may do so, when authorized by the Company officer in charge in which case he shall be reimbursed at the rate of ten cents per mile via the shortest distance with a maximum of \$4.00 for the return trip. If he elects to travel by bus or other public transportation he will be allowed the amount of the fare up to the maximum of \$4.00 for the return trip.

This is not a case covered by paragraph (c), (d) or (e) of Article 27.4. The grievor, having been awarded the position of Relief Dispatcher/Operator, Brandon Division, seeks the travel allowance provided for in Article 27.4(f). The basis of such payment would be that he was unable to return to his headquarters on the days for which the payment is claimed. The question of fact, then, is: where was the grievor's headquarters at the material times?

Before the implementation of the Customer Service Centre at Brandon, the grievor had been Agent/Operator at Rapid City, as well as senior Spare Dispatcher, Brandon Division. At that time Rapid City was his headquarters. With the implementation of the Customer Service Centre at Brandon, however, the position of Agent/Operator at Rapid City was abolished. It is the Company's position that Brandon is the grievor's headquarters. The matter of the location of headquarters is dealt with in Articles 27.4(b) and 6.2(b), which are as follows:

- 27.4 (b)** The headquarters of a Spare Telegrapher is as specified in Article 6, Clause 2(b). The headquarters of a Spare Dispatcher, Spare Traffic Supervisor or Relief Agent is the same as that specified in Article 6, Clause 2(b) for a Spare Telegrapher unless such employee holds an established position on the Division, in which case the point where he is so established shall be his headquarters.
- 6.2 (b)** Headquarters of a Spare Telegrapher shall be the headquarters of the Division unless he resides permanently at a point on the division in which case such point shall be his headquarters.

It must be said that Article 6.2(b) does not apply with respect to the grievor's position as Relief Dispatcher/Operator. That article deals with Spare Telegraphers, whereas Article 27.4(b) deals with headquarters of a number of positions. In those cases (even on the assumption that the grievor's is among them), the headquarters is the same as under Article 6.2(b), "unless such an employee holds an established position on the Division". As Relief Dispatcher/Operator the grievor does hold an established position, which was bulletined and which was awarded to him. The Company established Brandon as the headquarters for the position. The grievor was advised that he might continue to reside in Rapid City, but that he would be expected to be available for work at Brandon, and he agreed to do so.

It was argued for the Union that there had been no occasion in the past when the headquarters of a job had been established simply on the basis of the preponderance of work. However this may be (and the location of the bulk of the work would appear to be a natural enough basis for the location of a headquarters, although there may certainly be other considerations), it does not appear that the Company was in violation of the collective agreement. The position could conceivably have gone to an employee domiciled elsewhere, and the collective agreement does not require that the headquarters should be the domicile of the successful applicant. Indeed, the provisions above set out clearly contemplate that the headquarters may be different from the domicile of the employee.

In the instant case it must be concluded that the grievor's headquarters as Relief Dispatcher/Operator is Brandon. Where he travels away from Brandon to carry out the functions of the job, he would of course be entitled to the allowance, but he is not entitled to it in respect of any inability to return to his home in Rapid City from his work in Brandon.

For the foregoing reasons, the grievance must be dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR

