

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 410

Heard at Montreal, Tuesday, June 12th, 1973

Concerning

CANADIAN PACIFIC TRANSPORT COMPANY LIMITED

and

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT
HANDLERS, EXPRESS AND STATION EMPLOYEES

EX PARTE

DISPUTE:

That Article 21, of the Agreement be interpreted as to the method used to calculate annual vacations due employees who work less than full time.

EMPLOYEES' STATEMENT OF ISSUE:

When an employee is required to work any portion of a day, a tour of duty less than eight hours, that period be credited to him for vacation purposes in Article 21 of the Agreement, as a day of cumulative service.

FOR THE EMPLOYEES:

(SGD.) L. M. PETERSON

GENERAL CHAIRMAN

There appeared on behalf of the Company:

C. C. Baker – Director, Labour Relations & Personnel, Vancouver

D. Cardi – Labour Relations Officer, CP Rail, Montreal

And on behalf of the Brotherhood:

L. M. Peterson – General Chairman, Toronto

G. Moore – Vice-General Chairman, Toronto

F. C. Sowery – Vice-General Chairman, Montreal

W. McNeely – General Secretary/Treasurer, Toronto

-

AWARD OF THE ARBITRATOR

The Company has raised two preliminary objections going to the arbitrability of this matter. One is that the Union did not give the requisite forty-eight hours' notice before submitting an ex parte statement to the Canadian Railway Office of Arbitration. For the reasons given in **Case No. 409**, this objection is sustained. It would be my view, however – again for the reasons set out in Case No. 409 – that the matter could be proceeded with at the next sittings.

The second objection is that the matter has not been processed through the grievance procedure in accordance with the provisions of the collective agreement. The grievance is brought as a Union, rather than an individual grievance. There is no express provision in the collective agreement as to Union grievances as such, but in my view the Union would be entitled to file grievances which would otherwise be proper, and to process them to arbitration.

In the instant case the Union sought to proceed directly to arbitration with respect to a matter involving the interpretation of the collective agreement. It is not for me to determine whether such a procedure would be, as the Union suggests, a desirable one. It is sufficient simply to state, as the Memorandum establishing the Canadian Railway Office of Arbitration makes clear, that I have no jurisdiction to hear a matter which has not been properly processed through the grievance procedure. The grievance in the instant case has not been processed in accordance with the provisions of the collective agreement, and accordingly I have no jurisdiction with respect to it.

Accordingly, the grievance must be dismissed.

(signed) J. F. W. WEATHERILL

ARBITRATOR