

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 963

Heard at Montreal, Wednesday, June 9, 1982

Concerning

CP EXPRESS [DIVISION OF CANADIAN PACIFIC EXPRESS & TRANSPORT LTD.]

and

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

DISPUTE:

The interpretation of the Clause contained in Article 17.1 of the CANPAR Agreement relating to Leadhands.

BROTHERHOOD STATEMENT OF ISSUE:

Failure by the Company to issue bulletins for Lead Hand Positions in Terminals where there are no resident Supervisors; such as

Kingston, Prescott, North Bay, Sudbury, Sault Ste. Marie, Belleville, Barrie, Huntsville, Walkerton, Thamesville, Golden Lake, Waterford, Peterborough, Oshawa, Thunder Bay, in the Province of Ontario.

Cowansville, St. Jean, Sherbrooke, Quebec, Trois Rivieres, St. Jerome, St. Therese, in the Province of Quebec.

Vancouver, Kamloops, Kelowna, Victoria, in the Province of British Columbia.

Saint John, New Brunswick.

Calgary, Edmonton, Lethbridge, Medicine Hat and Red Deer in the Province of Alberta.

Regina, and Prince Albert in the Province of Saskatchewan,

and issuing directives to designated employees to discharge the orders, and, further, in charge and responsible for the operation of the Terminal, such as making bank deposits and making reports to head office, and the daily allocation of work.

The Company refuses to bulletin the Lead Hand Positions maintaining it is not required.

COMPANY'S STATEMENT OF ISSUE:

The Company at its various locations, where warranted, established Lead Hand positions by bulletin procedure in accordance with the Collective Agreement.

The Company maintains it is not obligated to establish Lead Hand positions on the basis of the mere fact that there is a rate of pay established for Lead Hands.

FOR THE BROTHERHOOD:

FOR THE COMPANY:

(SGD.) J. J. BOYCE
GENERAL CHAIRMAN

(SGD.) D. R. SMITH
DIRECTOR, INDUSTRIAL, RELATIONS, PERSONNEL & ADMINISTRATION

There appeared on behalf of the Company:

D. R. Smith – Director, Industrial Relations, Toronto
B. D. Neill – Manager, Labour Relations, Toronto
R. A. Colquhoun – Labour Relations Officer, CP Rail, Montreal

And on behalf of the Brotherhood:

J. J. Boyce – General Chairman, Toronto
J. Crabb – Vice-General Chairman, Toronto

AWARD OF THE ARBITRATOR

Article 17.1 of the Collective Agreement provides for a premium rate to be paid to “an employee filling the position of Leadhand”. That article does not require that Leadhands be appointed in any particular case. It simply sets out the payment to be made to Leadhands, where they are appointed.

If the Company does in fact require Leadhands, then it must bulletin such positions in accordance with the Collective Agreement. Further, even where there is no express or acknowledged requirement, if employees are in fact given a Leadhand’s duties to perform, then they should be paid as such and the positions bulletined.

The material before me does not establish that Leadhand positions have in fact been created at the locations referred to. The casual designation of minor responsibility does not necessarily mean that an employee is in fact assigned a Leadhand job. Where responsibility of that sort (and it is necessarily responsibility of a minor nature) is regularly assigned, however, then it may be that a Leadhand position has in fact been created. That is a matter to be determined having regard to the circumstances of each particular situation.

The mere fact that there is no resident supervisor at a given location does not, without more, require the conclusion that there are Leadhand duties to be performed, or that there is necessarily a vacancy for a Leadhand. That is a determination to be made by the Company as to the work it requires to have done. In the instant case, it must be concluded that the mere fact that there are no resident supervisors does not require the conclusion that Leadhands must be appointed. Whether or not Leadhand duties are in fact being assigned is, as I have suggested, a separate matter, to be determined having regard to the circumstances of particular cases.

For the foregoing reasons, it is my conclusion that there has been no violation of the Collective Agreement in this case. The grievance must therefore be dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR