

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1037

Heard at Montreal, Tuesday, February 8th, 1983

Concerning

CANADIAN PACIFIC LIMITED

and

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

DISPUTE:

Regarding the application of Article 8 of the Job Security, Technological, Operational, Organizational Changes Agreement.

JOINT STATEMENT OF ISSUE:

Under date of July 6, 1982, bulletin No. 526 was posted on the Sudbury Division advising of the abolishment of the six positions in question. The Union contended that these abolishments were the result of an operational and organizational change and requested that the bulletin be cancelled and that as notice under Article 8 of the Job Security Agreement was not served, the adversely affected employees be paid for wages lost on this account.

The Company denied the Union's request.

FOR THE UNION:

(SGD.) W. T. SWAIN
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) L. A. CLARKE
FOR: GENERAL MANAGER

There appeared on behalf of the Company:

L. A. Clarke – Supervisor, Labour Relations, Toronto
G. A. Little – Supervisor, Customer Service Centre, Sudbury
P. E. Timpson – Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

W. T. Swain – General Chairman, Montreal
P. Vermette – Vice General Chairman, Montreal

AWARD OF THE ARBITRATOR

The positions in question were all located at the Customer Service Centre at Sudbury. They were two positions of Machine Clerk 2/Checker/Baggageman, one position of Relief Machine Clerk 2, one of Relief Car Checker/Baggageman, one of Relief Machine Clerk 3, and one of Checker Car Baggageman. This was a substantial reduction in employment in an office of some 35 positions.

Certain of the work which had been performed by the incumbents of those positions is now performed by others, including persons, notably Operators, in other bargaining units. That fact, in itself, would not establish any violation of the Collective Agreement between the parties. It is argued, however, that there was, in the circumstances, a requirement that the employer give notice under Section 8 of the Job Security Agreement prior to abolishing the positions. It is said that what was involved was a "technological, operational or organizational change of a permanent nature which will have adverse effects on employees" and that notice was required to be given pursuant to Article 8.1 of the Job Security Agreement.

While it is acknowledged that in some circumstances a change of the sort referred to might be required to be the subject of a notice under the Job Security Agreement, that was not required in the instant case. The changes, so the Company argued, are ones "brought about by fluctuation of traffic", and so are not to be considered operational or organizational changes by virtue of the provisions of Article 8.7.

There is no doubt, from the material before me, that there was a very substantial drop in traffic at Sudbury during the period immediately preceding the changes in question. The total car count decreased dramatically, and the engine hours worked in the yard were reduced by about one-half. There was, as a result, much less work to be performed in the positions in question and related positions.

Some of the work which had been performed by the positions in question was, thereafter, performed by Operators. This did not, in the circumstances, constitute an "Organizational Change", in my view. Such work was already being performed by Operators, as well as by members of the bargaining unit. There was not a reassignment of a particular type of work from one classification to another. There was simply a reduction in the need for the classification in question, because of a drastic decline in the amount of work available. The "functions transferred to another craft" were already being performed by members of that craft.

In these circumstances, it must be my conclusion that what occurred was a change brought about by fluctuation of traffic, and was not an operational or organizational change in respect of which notice under Article 8 was required to be given. Accordingly, the grievance must be dismissed.

(signed) J. F. W. WEATHERILL
ARBITRATOR