

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1240

Heard at Montreal, Tuesday, May 8, 1984

Concerning

CP EXPRESS & TRANSPORT

and

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

DISPUTE:

The abolishment of the position of Foreman on the 1:30 a.m. to 10:00 a.m. shift at Lachine Terminal, Montreal, Quebec, and the work allocated to the Supervisory Staff.

JOINT STATEMENT OF ISSUE:

Employee W. Thornton, was issued a notice that effective June 14, 1982, his position of working foreman would be abolished. The Brotherhood contends that the work normally performed by the foreman was allocated to the supervisory staff.

The Brotherhood requested the position be reinstated.

The Company declined the Brotherhood's request.

FOR THE BROTHERHOOD:

(SGD.) J. CRABB

FOR: SYSTEM GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) N. W. FOSBERY

DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

N. W. Fosbery – Director, Labour Relations, Toronto

And on behalf of the Brotherhood:

J. J. Boyce – General Chairman, Toronto

G. Moore – Vice-General Chairman, Moose Jaw

AWARD OF THE ARBITRATOR

In this case the grievor's position as a working foreman on the evening shift was abolished owing to a downturn in the Company's business. He exercised his seniority rights under the collective agreement and continued employment as a warehouseman.

The supervisory functions formerly performed by the grievor were transferred to the Company's supervisory staff. Approximately 30 minutes of the grievor's shift was devoted to performing these duties when he occupied the position of working foreman. The balance of his shift comprised physical duties that he presently performs as a warehouseman. In the result, the grievor has lost the premium he earned as a working foreman by virtue of the abolition of that position.

The Trade Union has referred to no article in the collective agreement that the Company has purported to violated. Indeed, in the absence of a job protection provision contained in the collective agreement, I cannot discern any fetter on management's right, particularly in having regard to the legitimate business reasons that prompted the change, from doing exactly what it did.

There being no provision of the collective agreement that was breached, the grievance is denied.

(signed) DAVID H. KATES
ARBITRATOR