

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1527

Heard at Montreal, Wednesday, June 11, 1986

Concerning

### ONTARIO NORTHLAND RAILWAY

and

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

#### DISPUTE:

Claim for automobile mileage expenses \$25.03, Operator G. Armstrong.

#### JOINT STATEMENT OF ISSUE:

On Dec. 31, 1985, Operator G. Armstrong was called on the telephone by the Chief Dispatcher and advised to report as Operator, Timmins, Ontario for 1100 hours that day. Instead of travelling on the Company bus, Mr. Armstrong drove his own automobile Porquis to Timmins and return. A claim for mileage expenses was submitted on his behalf. It was not allowed as Mr. Armstrong had not received the prior authority required by article 18.5 of the collective agreement.

#### **FOR THE BROTHERHOOD:**

**(SGD.) S. C. RUTTAN**  
VICE-GENERAL CHAIRMAN

#### **FOR THE COMPANY:**

**(SGD.) P. A. DYMENT**  
GENERAL MANAGER

There appeared on behalf of the Company:

A. Rotondo – Manager Labour Relations, North Bay  
W. R. Deacon – Trainmaster & Rules Instructor, Englehart  
J. H. Huisjes – P.Eng-Superintendent, Maintenance of Way, North Bay

And on behalf of the Brotherhood:

S. C. Ruttan – Vice-General Chairman, Porquis Junction

## AWARD OF THE ARBITRATOR

Article 18.5 of the collective agreement reads as follows:

When privately owned automobiles are used by employees to travel between work locations or from their headquarters to a work location, such employees, who receive prior authority from the Chief Dispatcher, will be reimbursed effective January 1, 1983 at 31 cents per mile (19.62 cents per km) ...

In these particular cases, **CROA 1526** and **1527**, the two employees, Messrs. L. K. Toye and G. Armstrong were allegedly summoned on short notice to relieve regular employees who had booked off. In the one case the employee was called off the spareboard and in the other the employee was recalled from lay off status.

Because of the short notice the grievors used their own automobiles to travel to their work place. In each case the Company denied their request for the travel allowance under article 18.5 because no "prior authority" was requested or received for use of their automobiles.

For purposes of these cases I am prepared to assume without necessarily finding that the grievors were called on short notice and thereby were warranted in using their own automobiles rather than using public transportation to travel to the work places.

The other assumption I am prepared to make is that in an appropriate circumstance the Company may be required to extend its "prior authority" retroactively. That is to say, there may very well be situations where the employee, for a legitimate reason, cannot secure permission to use his car for travel purposes until after he has arrived at work.

The Company's concern in this case, however, is that the employees in question each had the opportunity to request authorization to use their own cars but deferred doing so. That is to say, when the Company dispatcher called the grievors to report for work (albeit on short notice) that was the time that they should have requested permission.

As a result of their failure to make a request for the mileage allowance in advance of reporting for work when the opportunity presented itself, I am of the view that the grievors cannot claim they were improperly denied "prior authority" after the fact. Or from another perspective, had the grievors asked for permission to use their automobiles prior to reporting for work and were denied the necessary prior authorization then, obviously, a different result may have followed.

The grievances are therefore denied.

**(signed) DAVID H. KATES**  
**ARBITRATOR**