

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1549

Heard at Montreal, Thursday, July 10, 1986

Concerning

ALGOMA CENTRAL RAILWAY

and

UNITED TRANSPORTATION UNION

DISPUTE:

Claim of Trainman C. Bain for bereavement leave pay on August 6, 7 and 8, 1985.

JOINT STATEMENT OF ISSUE:

Trainman Bain's Mother-in-law died on August 4, 1985. Trainman Bain was on vacation up to and including August 4, 1985, and was obligated to be available for duty on expiration of his vacation at 0001 August 5, 1985. He claimed three consecutive calendar days bereavement leave in respect of August 6, 7 and 8, 1985.

The Company declined payment of this claim on the basis that Trainman Bain's entitlement to bereavement leave was in respect to August 5, 6 and 7, 1985, the first three consecutive calendar days immediately following the death of his Mother-in-law.

The Organization claims entitlement to pay for lost time August 8, 1985 under the provisions of Article III (a) of the current collective agreement.

FOR THE UNION:

(SGD.) J. SANDIE
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) V. E. HUPKA
FOR: VICE-PRESIDENT - RAIL

There appeared on behalf of the Company:

V. E. Hupka – Manager, Industrial Relations, Sault Ste. Marie
N. L. Mills – Superintendent, Sault Ste. Marie

And on behalf of the Union:

J. Sandie – General Chairman, Sault Ste. Marie

AWARD OF THE ARBITRATOR

In accordance with **CROA 387**, the grievor was entitled *prima facie* to three consecutive calendar days off work upon the death of his mother-in-law. The three scheduled working days following his mother-in-law's death were August 5, 6, 7, 1985. The Company was prepared to designate these days as the grievor's bereavement leave entitlement.

The grievor requested August 6, 7, 8, 1985 for his bereavement leave settlement. August 5 was a holiday.

CROA 387 suggests that the aggrieved employee must provide a legitimate excuse as to why the period of the bereavement leave should be designated on three consecutive calendar days other than the three days immediately following the death. In this case Mr. Bain did not provide me with any reason as why the difference between August 5 and August 8, 1985 should make any meaningful difference with respect to his entitlement.

It may very well be that a legitimate excuse may have existed in the grievor's situation. That excuse was neither communicated to the Company nor the Arbitrator at the hearing. The one excuse, however, that is not acceptable is the selection of those days as bereavement leave that would represent the most earnings to the grievor.

Accordingly the grievance is denied.

(signed) DAVID H. KATES
ARBITRATOR