

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1603

Heard at Montreal, Tuesday, January 13, 1987

Concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

AND

**CANADIAN BROTHERHOOD OF RAILWAY,  
TRANSPORT AND GENERAL WORKERS**

### **DISPUTE:**

Time claim on behalf of Motorman R. Unger of Winnipeg, claiming five and one-half hours at overtime rates when not called to work an overtime shift on February 28, 1985.

### **JOINT STATEMENT OF ISSUE:**

On February 28, 1985, Mr. Unger worked his regular assignment as a Motorman from 0830-1630 hours. On this day the Company required a Motorman for a 1400-2200 hour assignment. The Company filled this position on overtime by calling an available employee who was on assigned rest days.

The Brotherhood's contention is that Mr. Unger was first out on the overtime list and should have been called as prescribed by the local Overtime arrangement.

The Company declined payment of this time claim.

### **FOR THE BROTHERHOOD:**

**(SGD.) TOM MCGRATH**  
NATIONAL VICE-PRESIDENT

### **FOR THE COMPANY:**

**(SGD.) JUNE PATRICIA GREEN**  
FOR: ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

M. M. Boyle – System Labour Relations Officer, Montreal  
W. W. Wilson – Manager Labour Relations, Montreal  
S. F. McConville – System Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

A. Cerilli – Regional Vice-President, Winnipeg  
Tom McGrath – National Vice-President, Ottawa

### **AWARD OF THE ARBITRATOR**

It is common ground that the assignment of overtime on February 28, 1985, was made in a manner consistent with the Collective Agreement and the local overtime arrangement. The grievance is apparently motivated by Mr. Unger's feeling that he should have been accorded the overtime in a manner inconsistent with the agreement, as had apparently been done the two previous days to the advantage of another employee. Reduced to its essence, Mr. Unger's complaint is that the Company, having previously departed from the requirements of the Collective Agreement in according overtime to another employee, should have done the same for him. Remarkably, the grievance is brought forward because the Collective Agreement was complied with.

It is trite to say that a grievance must concern itself with the violation of the Collective Agreement under which it is brought. Under Article 24.5 of the instant Agreement a grievance is described as "...Any complaint raised by an employee concerning the interpretation, application or alleged violation of this agreement...". As the grievance discloses no departure from the terms of the Collective Agreement, it must be dismissed.

**(sgd.) MICHEL G. PICHER**  
ARBITRATOR