

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1662

Heard at Montreal, on Thursday, June 11, 1987

concerning

VIA RAIL CANADA INC.

and

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

EX PARTE

DISPUTE:

Time claim on behalf of E. Alexander for 66 hours and 25 minutes at Senior Service Attendant rate of pay.

JOINT STATEMENT OF ISSUE:

With the introduction of Train Crewing effective June 13, 1986, all employees were required to be trained and qualified in the new classifications.

On June 4, 1986, Mr. Alexander was contacted by telephone at 8:30 pm and directed to attend training classes. He refused and requested that instructions be communicated to him in writing. Mr. Alexander was scheduled for classes June 9 and did not show up as on June 9. Mr. Alexander was at work enroute to Vancouver and returned on June 11.

Mr. Alexander was contacted again on June 11, and verbally instructed to report for training at 8:30 am on June 13. He reported to participate in those classes and was referred to the afternoon training classes which commenced at 1:30 pm. Mr. Alexander advised the Corporation that he could not attend the 1:30 pm training classes due to a dentist appointment. The grievor was again contacted on June 19 and was scheduled for training on the morning of June 20. He failed to show up for training.

Mr. Alexander was not permitted to take out his assignment as Senior Service Attendant on June 21 until he took the necessary training. As a result, he submitted a time claim for 66 hours and 25 minutes at a Senior Service Attendant rate of pay.

The Brotherhood grieved the matter and contended that the grievor has a legitimate claim for allegedly refusing to be trained.

The Corporation denied the Brotherhood's contentions.

FOR THE BROTHERHOOD:

(SGD.) T. MCGRATH
NATIONAL VICE-PRESIDENT

Representing the Corporation:

M. St-Jules	– Manager, Labour Relations, Montreal
C. Pollock	– Officer, Labour Relations, Montreal
J. R. Kish	– Personnel and Labour Relations Officer, Montreal

H. M. Carvery – Supervisor, Services & Sales, Winnipeg
C. Thomas – Officer, Human Resources, Moncton

Representing the Brotherhood:

A. Cerilli – Regional Vice-President, Winnipeg
G. Côté – Regional Vice-President, Montreal

AWARD OF THE ARBITRATOR

The sole issue is whether the grievor made every reasonable effort to attend the training course. The material establishes that when he was initially contacted by telephone on June 4, 1986, the grievor refused to accept any verbal instruction to attend the training course, and insisted on being advised in writing. It cannot be said that the notice given to him was excessively short on that occasion, as it related to a class scheduled for June 9. It does not appear from the record that the grievor informed the Corporation of the fact that he was scheduled to be in service on that date, that he inquired as to the possibility of being released from service or that he requested an alternative date.

There appears to be some conflict between the parties as to whether Mr. Alexander was advised of the final opportunity to take a class specially scheduled for him on June 20, 1986. While it is clear that he did not attend that class, and was taken off his assignment on the next day for lack of training, the Arbitrator finds it unnecessary to resolve that factual dispute to dispose of this case. The necessity for completing the training, in the times at which the four hour training course was available, was clearly made known to the grievor. The Corporation has the responsibility to make such courses reasonably available. By the same token there is plainly a responsibility upon the employee to make such efforts as are reasonably necessary to be in attendance. After his failure to attend on June 9, 1986 Mr. Alexander was next scheduled to report to the training centre at 0830 hours on June 13 for the training course. For reasons unexplained, save that it must have been his own error, the grievor in fact reported to the employee service centre, too late to be included in the class. Being further reminded on June 19 of the need to complete his training, Mr. Alexander still failed to attend an available training course on June 20, 1986.

In this grievance the onus is upon the Union to establish that the Corporation wrongfully held the grievor out of service. The material establishes that by June 21, 1986 Mr. Alexander had not satisfied the requirements for qualification through the completion of training. On a careful review of the material, I cannot conclude that that failure was ultimately attributable to the Corporation. I am not satisfied that the grievor made every reasonable effort, or had a *bona fide* excuse, for his failure to take the training class during the period of weeks in June of 1986 when it was amply available to him. For these reasons the grievance must be dismissed.

(signed) MICHEL G. PICHER
ARBITRATOR