

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1718

Heard at Montreal, Wednesday, 11 November 1987

Concerning

CANADIAN PACIFIC LIMITED

And

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

DISPUTE:

Mr. D. Covre experienced back pain on June 3, 1986 and was advised to see his physician. The Company Chief of Medical Staff requires Mr. Covre to lose weight to ensure that he is fit to return to work, prior to his being allowed to resume duty.

JOINT STATEMENT OF ISSUE:

The Union contends that: **1.)** The Company is violating Section 18.1, 18.3 and 18.4, Wage Agreement 41, by not allowing Mr. Covre to return to work. **2.)** Mr. Covre, when hired 14 years previously, weighed the same as now and he was not considered overweight prior to the incident of June 3, 1986. **3.)** Mr. Covre should have been allowed to return to work July 28, 1986, as stated by his doctors and paid for any loss in wages from October 9, 1986 and onward.

The Company denies the Union's contention and declines payment and reinstatement of Mr. Covre.

FOR THE BROTHERHOOD:

(SGD.) H. J. THIESSEN
SYSTEM FEDERATION GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) R. A. DECICCO
GENERAL MANAGER, OPERATION AND MAINTENANCE

There appeared on behalf of the Company:

B. L. Mittleman	– Counsel, Montreal
R. A. Colquhoun	– Labour Relations Officer, Montreal
R. A. Decicco	– Supervisor, Labour Relations, Toronto
M. K. Couse	– Assistant Supervisor, Labour Relations Toronto
J. Lalibert	– Roadmaster, Sudbury
D. A. Stuart	– Deputy Roadmaster, Smith Falls
Dr. M. Grimard	– Chief of Health and Medical Services, B.Sc., M.D., M.Sc., Ph.D., Montreal

And on behalf of the Brotherhood:

M. Gottheil	– Assistant to Vice-President, Ottawa
M. L. McInnes	– System Federation General Chairman, Ottawa
L. M. DiMassimo	– Federation General Chairman, Ottawa
R. Paris	– Observer
D. Grey	– Witness
D. Covre	– Grievor

At the request of the parties, the case was adjourned *sine die* during the hearing.