CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1907

Heard at Montreal, Wednesday, 12 April 1989

Concerning

VIA RAIL CANADA INC.

And

CANADIAN BROTHERHOOD OF RAILWAY, TRANSPORT AND GENERAL WORKERS

DISPUTE:

Violation of Articles 16.2 (a), (b) and (c) of Collective Agreement No. 2.

JOINT STATEMENT OF ISSUE:

Seven Service Managers were directed to attend a training class on November 23, 1987 and instructed to report at 0830 hours. Class was suspended one hour for lunch at 1200 hours, and resumed at 1300 hours until 1530 hours.

The participants were regularly assigned employees on layover and were paid 6 hours for actual hours spent in training.

The Brotherhood contends that the Corporation violated Articles 16.2 (a), (b) and (c) of Agreement No. 2, by not compensating employees on a continuous basis from 0830 until 1530.

The Corporation has rejected the Brotherhood's contention and maintains that the employees were correctly compensated in accordance with Article 16.2 (a) of Agreement No. 2.

FOR THE BROTHERHOOD:	FOR THE CORPORATION:
(SGD) TOM MCGRATH	(SGD) A. D. ANDREW
NATIONAL VICE-PRESIDENT	DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Corporation:

C. O. White	– Officer, Labour Relations, Montreal
M. St-Jules	– Manager, Labour Relations, Montreal
J. R. Kish	– Officer, Personnel & Labour Relations, Customer Services,

And on behalf of the Brotherhood:

T. N. Stol	– National Vice-President, Toronto
M. Pitcher	– Representative, Toronto

AWARD OF THE ARBITRATOR

Notwithstanding the able argument of the Brotherhood's representative, the Arbitrator is compelled to conclude that in the circumstances the Collective Agreement does not disclose an entitlement to a paid lunch on the part of the Service Managers. Article 16.2(a) of the Collective Agreement which, it is common ground, applies in the circumstances of this case provides as follows

> 16.2 (a) Assigned employees directed to undergo training during layover days shall be paid for actual hours spent in training at the pro rata rate of their assigned classification with a minimum of four hours in each 24-hour period. Such time shall be paid over and above guarantee and shall be included in the accumulation of hours under Article 4.2(b).

The material establishes beyond controversy that employees who are assigned to training courses during what would otherwise be periods of regular duty for which they would have paid lunches continue to be entitled to a paid lunch period. That treatment is to ensure that they do not lose wages by virtue of their removal from regular service. The instant case is different, however, insofar as the employees were undergoing training during their layover period, a period of time for which they would not otherwise receive wages. In those circumstances I am satisfied that the specific language of Article 16.2(a), and in particular the reference to "actual hours spent in training" does, as the Corporation submits, restrict the payment of the employees to those hours for which they are actually in training.

In the Arbitrator's view it is significant that the employees were given a reasonable lunch period . I make no comment of what result would flow if the Company purported to suspend the training session for a period of two or three hours for lunch, in consequence of which the employees would be severely inconvenienced. In a case of that kind the position advanced by the Brotherhood to the effect that two minimum periods of fours hours could be claimed in keeping with the concept of reporting time and release time as defined in the Collective Agreement might bear legitimate scrutiny. On the facts of this case, however, it is reasonable to conclude that the parties did not intend employees who are being to trained during layover days to be paid beyond such time as they are actually training, and that such time should be taken as excluding reasonable lunch periods. The treatment of employees in that circumstance appears, moreover, to be consistent with the payment of employees who are called for terminal duty without a paid lunch period under the terms of the same Collective Agreement.

For the foregoing reasons the grievance must be dismissed.

April 14, 1989

(Sgd.) MICHEL G. PICHER
ARBITRATOR