

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2173

Heard at Montreal, Thursday, 11 July 1991

concerning

CANPAR (CP EXPRESS & TRANSPORT)

and

TRANSPORTATION COMMUNICATIONS UNION

DISPUTE:

The issue of layoff notices by Leadhands.

JOINT STATEMENT OF ISSUE:

On the morning of January 31, 1991, on instructions from the Terminal Manager via the telephone, the Leadhand at Moncton, New Brunswick, issued a layoff notice to fellow driver P. Meunier, to be effective on the morning of February 1, 1991.

The Union contends that a Leadhand overextends any authority he may have when he becomes involved in certain parts of the operation of CanPar, such as hiring, laying off, or disciplining employees. The Union also contends that the Collective Agreement is clear when it refers to a "24-hour advance written notice of layoff." The Union further contends that the Company is attempting to circumvent the written Article in the Agreement, which is specific in the number of hours, by telephoning the terminal and ordering the Leadhand to issue a notice of layoff in the Terminal Manager/Supervisor's name. The Company contends that it is not an incorrect practice, in fact it is a function of the Leadhand to issue a layoff notice, most particularly in the absence of the Terminal Manager/Supervisor and no attempt is being made to circumvent the Collective Agreement as it refers to the advance written notice of layoff.

The relief requested is the stopping of the practice of requiring the Leadhand, or any scheduled employee, to issue layoff notices or be involved in the hiring or disciplining of fellow employees.

FOR THE UNION:

(SGD.) J. J. BOYCE
SYSTEM GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) P. D. MACLEOD
DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

P. D. MacLeod – Director, Labour Relations, Toronto

And on behalf of the Union:

J. Crabb – Secretary/Treasurer, Toronto

AWARD OF THE ARBITRATOR

At the hearing the Company's representative conceded that there is no authority, under the collective agreement or otherwise, for a leadhand to hire, discipline or discharge employees. To the extent, however, that a leadhand may

be involved with providing a report of improper conduct which becomes part of an investigation leading to discipline, no violation of the collective agreement is disclosed. That, moreover, is not disputed by the Union.

The material before the Arbitrator reflects that more than half the terminals operated by the Company function without any management personnel on the premises. The role of the leadhand in day to day coordination and liaison is, therefore, of substantial importance. The incident giving rise to this grievance is not in dispute. On the morning of January 31, 1991, pursuant to instructions provided to him over the telephone by the Terminal Manager, the Leadhand at Moncton, New Brunswick prepared a written layoff notice for fellow driver P. Meunier which was to take effect on the morning of February 1, 1991. The document was hand written by the leadhand and signed in the leadhand's own signature followed by the notation "For Chris Hooton", the Terminal Manager.

The Union's representative submits that the incident discloses a bargaining unit employee performing a management function contrary to the intent of the collective agreement. The Arbitrator has some difficulty with that submission. Article 17.2 of the collective agreement contemplates the existence of leadhands, and provides as follows:

17.2 It is understood that an employee filling the position of Leadhand shall receive not less than 25 cents per hour in excess of any employee he is required to lead at the terminal where he is employed regardless of his service.

The material further establishes that the Company is under an obligation to provide to written notice to any employee who is to be laid off, not less than twenty-four hours in advance. In this regard, Article 5.3.6 provides as follows:

5.3.6 Permanent employees shall be given 24 hours' advance written notice of layoff and unassigned employees as much notice as possible.

The concept of the leadhand is long established in Canadian industrial relations. As a general rule the leadhand is a bargaining unit employee who serves as a conduit between management and other employees. He or she typically relays instructions and directives from management, and may exercise a degree of first line supervisory authority. While, as a general rule, the directives related to employees by leadhands are communicated verbally, there is nothing in general practice, nor in the terms of the instant collective agreement, to foreclose the possibility of a leadhand conveying the instructions of management by preparing and posting a general bulletin or, similarly, preparing and handing a specific notice to one or more employees. To the extent that the leadhand continues to function in the role of messenger, and exercises no direct discretion or authority, there is no conflict of interest or departure from the general line of demarcation between management and union established by the terms of the collective agreement.

In the practical circumstances of the Company's operations, the ability to utilize leadhands to forward written notification to employees of an impending layoff, which must be given on twenty-four hours' notice, is of obvious importance. Given that freight volumes within the next day may only be known to management within a very limited lead time, decisions as to temporary layoffs must be made and communicated as promptly as possible. In the Arbitrator's view, given that the language of the instant collective agreement was negotiated with the knowledge that leadhands are the only means of ready communication from management to employees at better than half of its terminals in Canada, it would require clear and unequivocal language to establish that the parties contemplated any limitation on the ability of the leadhand to prepare and deliver a written notification of layoff upon the direct instruction of a terminal manager who may be located at another location.

For all of the foregoing reasons the Arbitrator cannot accept the position advanced by the Union. I am satisfied that no violation of the collective agreement is disclosed in the event which transpired at Moncton Terminal on the morning of January 31, 1991. For the foregoing reasons the grievance must be dismissed.

July 13, 1991

(Sgd.) MICHEL G. PICHER
ARBITRATOR