

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2281

Heard at Montreal, Wednesday, 9 September 1992

concerning

CANADIAN PACIFIC LIMITED

and

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

DISPUTE:

The advertisement on M/W Bulletin No. 5, dated May 13, 1991 for the position of one Permanent B&B Carpenter, headquartered at Sudbury, vice Mr. P. Levasseur.

JOINT STATEMENT OF ISSUE:

On April 18, 1991, Mr. P. Levasseur, who had been working the position of B&B Bench Carpenter at Sudbury since November 6, 1981, retired from the Company. Subsequently, the vacated position was advertised on Bulletin No. 5 as a B&B Carpenter.

The Union contends that: **1.)** CP Rail has violated Section 14.1 of Wage Agreement No. 41, by not advertising the position as a Bench Carpenter: **2.)** the Company has violated Article 8.1 of the Job Security Agreement by not serving notice to abolish the Bench Carpenter position and replacing it with a Carpenter position.

The Union requests that: **1.)** the Carpenter position advertised on Bulletin No. 5 be re-advertised as a Bench Carpenter position: **2.)** Mr. D. Arsenault be compensated for all lost wages, due to the difference in rates of pay between the Carpenter and Bench Carpenter positions.

The Company denies the Union's contentions and declines the Union's request.

FOR THE BROTHERHOOD:

(SGD.) J. J. KRUK

SYSTEM FEDERATION GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) D. B. CAMPBELL

GENERAL MANAGER, OPERATION & MAINTENANCE, IFS

There appeared on behalf of the Company:

C. Bartley – Labour Relations Officer, IFS, Toronto
D. Cooke – System Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

J. J. Kruk – System Federation General Chairman, Ottawa
D. McCracken – Federation General Chairman, Ottawa

AWARD OF THE ARBITRATOR

On a careful review of the material filed, the Arbitrator cannot find any violation of section 14.1 of Wage Agreement No. 41, or of article 8.1 of the Job Security Agreement, as alleged by the Brotherhood. I am satisfied, on the balance of probabilities, that the carpentry functions performed by Mr. Arsenault are, for the main part, not functions which would fall within the purview of the position of Bench Carpenter. That position relates generally to cabinet making and fine carpentry rather than to general framing or rough carpentry.

It should be stressed that nothing in the Arbitrator's conclusion prevents the employee concerned from claiming upgrades in wages for such assignments as would fall within the duties of a bench carpenter. Nor is the Brotherhood prevented from claiming that a bench carpenter's position has been established, should it be in a position to demonstrate that the preponderance of the duties and responsibilities of any carpenter fall within that description. The evidence presented in the case at hand fails to do so.

For the foregoing reasons the grievance must be dismissed.

September 11, 1992

(Sgd.) MICHEL G. PICHER
ARBITRATOR