

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2396

Heard at Montreal, Thursday, 16 September 1993

concerning

CP EXPRESS & TRANSPORT

and

TRANSPORTATION & COMMUNICATIONS UNION

EX PARTE

DISPUTE:

The hourly rate to be used when employee G. Kirkbride of Moncton, New Brunswick, is on overtime.

UNION'S STATEMENT OF ISSUE:

Employee G. Kirkbride, who had been working a highway run, had an Article V notice served on him and he was required to return to the Moncton Terminal to hold his work. A mutually agreed on hourly rate of \$17.746 was established for Mr. Kirkbride for his base rate. This was his "MBR". The regular published rate for a Warehouseman-Vehicleman T.T. in the Atlantic Canada Agreement is \$11.006. When this employee works overtime he is paid at the rate of \$16.510 for his overtime hours.

The Union contends that work in excess of 8 hours per day shall be considered overtime and be paid for at the rate of time and one-half time. From that, the Union contends that the overtime rate would be based on the regular rate being paid to the employee at the time, which in this case is his established and agreed on rate of \$17.746. The Union further contends that this is the practice that has been used for employees on an MBR.

The Company declined the grievance at Step 1, claiming that the matter was being handled by B. Weinert, Director, Labour Relations. The Company failed to respond to the grievance at Step 2. The Union wrote a further letter to the Director of Labour Relations, CPET, which also was not answered.

The relief requested is the payment to Mr. Kirkbride of time and one-half the hourly rate of \$17.746 for all overtime hours he works, with a retroactive payment for all the overtime hours he has worked since his new MBR rate was established.

FOR THE UNION:

(SGD.) J. CRABB

EXECUTIVE VICE-PRESIDENT

There appeared on behalf of the Company:

B. F. Weinert - Director, Labour Relations, Toronto

And on behalf of the Brotherhood:

D. Dunster - Executive Vice-President, Toronto

J. J. Boyce - National President, Ottawa

D. J. Bujold - National Secretary-Treasurer, Ottawa

M. Prebinski - Education Director, Ottawa

AWARD OF THE ARBITRATOR

For the reasons given in **CROA 2395**, the Arbitrator directs that the overtime hours worked by Mr. Kirkbride are to be paid at the rate of time and one-half his MBR rate, with retroactive payment for all overtime hours worked since his MBR was established.

September 17, 1993

(sgd.) MICHEL G. PICHER
ARBITRATOR