

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2436

Heard in Montreal, Thursday, 16 December 1993

concerning

CANADIAN PACIFIC EXPRESS & TRANSPORT

and

TRANSPORTATION COMMUNICATIONS UNION

EX PARTE

DISPUTE:

The allocation of overtime to Junior Employee B. Dittrich, while Senior Employee T. Chisholm was available and qualified.

UNION'S STATEMENT OF ISSUE:

Sunday, June 21st, 1992 overtime was required by the Company for which Junior Employee B. Dittrich was called to perform.

The Union filed a grievance stating Employee Trevor Chisholm was available and qualified to perform the work, therefore claimed all times worked by Junior Employee.

The Company denied the grievance, stating employee Trevor Chisholm was not qualified.

FOR THE UNION :

(SGD.)G. RENDELL

for: EXECUTIVE VICE-PRESIDENT

There appeared on behalf of the Company:

C. W. Peterson – Counsel, Toronto
B. F. Weinert – Director, Labour Relations Toronto

And on behalf of the Union:

M. Kronick – Counsel, Toronto
D. Dunster – Executive Vice-President, Toronto

AWARD OF THE ARBITRATOR

The material before the Arbitrator discloses that the Company has a well-established program for training and testing vehiclemen for qualification as linehaul drivers. The evidence further establishes that the Company was advised that the overtime assignment which is the subject of this grievance, which concerned a weekend delivery for the Facelle paper products company, involved runs which would all be out of town highway deliveries. It is not disputed that the Company maintains records of drivers who are linehaul qualified, and that the grievor is not among them, not having taken the necessary tests at the time in question.

In the Arbitrator's view article 13.9, which governs the assignment of overtime in the case at hand, implicitly requires that the employee claiming an assignment of overtime be qualified for the work in question. On the basis of the facts touched upon above, the Arbitrator is satisfied that the grievor did not satisfy the qualification requirement, and that the requirement was reasonable in the circumstances. The junior employee called to perform the work was so qualified. Moreover, in the Arbitrator's view, the fact that the junior employee who, like the grievor, was a city driver, was paid on an hourly basis rather than on a mileage basis does not alter the nature of the assignment or the right of the employer to require reasonable qualifications.

For the foregoing reasons the grievance must be dismissed.

17 December 1993

(sgd.) MICHEL G. PICHER
ARBITRATOR