

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2473

Heard in Montreal, Tuesday, 10 May 1994

concerning

VIA RAIL CANADA INC.

and

**CANADIAN BROTHERHOOD OF RAILWAY,
TRANSPORT & GENERAL WORKERS**

DISPUTE:

The compensation of Mr. Donald Tremblay, a regularly assigned O.T.S. employee, for the July 1st, 1992 statutory holiday.

JOINT STATEMENT OF ISSUE:

On July 1st, 1992, Mr. Tremblay was on his lay-over day as per his scheduled assignment. On July 2, he began his vacation which lasted until July 18, 1992.

The Corporation paid Mr. Tremblay an extra day's vacation, as per Article 8.4.

The Brotherhood claims that Mr. Tremblay should have been compensated as per Article 8.1, and that he should have been paid at time and one-half on July 19, 1992 for the July 1st 1992 statutory holiday.

The Corporation declined the Brotherhood's claim

FOR THE BROTHERHOOD:

(SGD.) J. D. HUNTER

for: NATIONAL VICE-PRESIDENT

FOR THE CORPORATION:

(SGD.) C. C. MUGGERIDGE

DEPARTMENT DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Corporation:

- C. Pollock – Senior Officer, Labour Relations, Montreal
- F. Moniz – Supervisor, Payroll, Montreal
- J. Santoni – Assistant Manager, On-Train Services, Montreal

And on behalf of the Brotherhood:

- A. Wepruk – Regional Vice-President, Montreal
- M. Moretto – Representative, Montreal

AWARD OF THE ARBITRATOR

The material before the Arbitrator confirms that the interpretation applied to articles 8.1 and 8.4 of the collective agreement in the case of Mr. Tremblay has been consistently applied, apparently without objection from the Brotherhood, for a substantial number of years. It is, in the Arbitrator's view, an interpretation which is arguably supportable on the language of the collective agreement. In these circumstances I am satisfied that the approach taken by the Corporation reflects the original intention of the parties, and that the Corporation was correct in paying Mr. Tremblay an extra day's vacation under the terms of article 8.4 of the collective agreement. For these reasons the grievance must be dismissed.

13 May 1994

(sgd.) MICHEL G. PICHER
ARBITRATOR