

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2583

Heard in Montreal, Tuesday, 14 February 1995

concerning

CANADIAN PACIFIC LIMITED

and

TRANSPORTATION COMMUNICATIONS UNION

DISPUTE:

The disqualification of Mr. W. Pasveer from the position of Customer Service Representative in the Winnipeg Customer Service Centre.

JOINT STATEMENT OF ISSUE:

On June 21, 1994, a notice was issued by the Company seeking applicants for the position of Customer Service Representative in the Winnipeg Customer Service Centre (CSC).

This notice was issued in order to allow employees to relocate to the Winnipeg CSC prior to their home location being transferred to Winnipeg and to address a staff shortage which was being experienced at the Winnipeg CSC.

Mr. W. Pasveer applied for a Customer Service Representative position and with his seniority he would have stood for a position.

The Company disqualified Mr. Pasveer based on his past record with the Company.

The Union grieved the disqualification and views that Mr. Pasveer should have been afforded an opportunity under article 24 of the collective agreement and Appendix B of the Special Agreement dated August 28, 1993, to enter the training at the Winnipeg CSC.

The Union requests that Mr. Pasveer be allowed an opportunity to enter the training and that he be compensated for any loss of wages resulting from the disqualification.

The Company has denied the Union's appeal.

FOR THE UNION:

(SGD.) D. J. KENT

FOR: EXECUTIVE VICE-PRESIDENT – RAIL

FOR THE COMPANY:

(SGD.) C. GRAHAM

FOR: EXECUTIVE DIRECTOR, CUSTOMER SERVICE CENTRE

There appeared on behalf of the Company:

C. Graham	– Labour Relations Officer, Montreal
M. DeGiroloamo	– Director, Industrial Relations, Montreal
D. Woodrow	– Manager, Services & Procedures, Winnipeg CSC

And on behalf of the Union:

M. Prebinski	– Director of Education, Ottawa
R. Pagé	– Assistant Division Vice-President, Montreal
XP. Conlon	– Assistant Division Vice-President, Toronto

AWARD OF THE ARBITRATOR

The material before the Arbitrator establishes that the position being contested involves a substantial degree of contact with employees and customers, requiring a reasonably diplomatic and cooperative attitude. Unfortunately the grievor's performance in that regard, as recently as 1993 and 1994, discloses a confrontational nature which, in the Company's view, is incompatible with the qualifications required for employment in the Winnipeg Customer Service Centre. For example, an abrupt directive on the part of the grievor that he refuses to take calls at home "from any Company officer at any time" written in June 1993, and certain threats which he expressed to Mr. S.J. Samosinski, Director of Labour Relations, in relation to his disqualification from the CSC, gives substance to the Company's concerns.

As a general matter the Arbitrator shares the concerns of the Union with respect to a determination made on the Employer's assessment of person's "attitude", particularly when that individual has not been disciplined over a period of two years. However, the facts in the case at hand disclose a reasonable basis for the judgment of the Company that Mr. Pasveer failed to display the personal qualities necessary for qualification in relation to the CSC position.

In the result, the Arbitrator is satisfied that the decision of the Company was not taken on a basis that is arbitrary, discriminatory or in bad faith, and that its judgment with respect to the grievor's qualifications should not be disturbed. For these reasons the grievance must be dismissed.

17 February 1995

(signed) MICHEL G. PICHER
ARBITRATOR