

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2762

Heard in Montreal, Thursday, 11 July 1996

concerning

VIA RAIL CANADA INC.

and

UNITED TRANSPORTATION UNION

DISPUTE:

Violation of Article 57 of Collective Agreement 12.

JOINT STATEMENT OF ISSUE:

In June and July of 1995, the Corporation hired two locomotive engineers prior to canvassing employees under the provisions of article 57 of collective agreement 12.

The Union, on June 20, 1995 initiated a policy grievance under the collective agreement, grieving that the Corporation violated the collective agreement and the Transfer Agreement dated 1987 and the commitments under that agreement.

The Corporation denied the grievance.

This grievance is now properly submitted for arbitration.

FOR THE UNION:

(SGD.) M. P. GREGOTSKI
GENERAL CHAIRMAN

FOR THE CORPORATION:

(SGD.) K. W. TAYLOR
**FOR: DEPARTMENT DIRECTOR, LABOUR RELATIONS &
HUMAN RESOURCES**

There appeared on behalf of the Corporation:

E. J. Houlihan	– Senior Officer, Labour Contracts, Montreal
J. C. Trenier	– Witness
M. Tessier	– Acting Chief of Transportation, Montreal

And on behalf of the Union:

M. P. Gregotski	– General Chairperson, Fort Erie
W. G. Scarrow	– General Chairperson, Sarnia
G. Bird	– Vice-General Chairperson, Montreal
R. Skilton	– Local Chairperson, Toronto

AWARD OF THE ARBITRATOR

The fundamental issue raised in the instant case is whether article 57 of the collective agreement imposes an obligation on the Corporation to train conductors and assistant conductors as locomotive engineers. It is common ground that historically the Corporation has not had any training facility or program for locomotive engineer training. Article 57.4 of the collective agreement provides as follows:

57.4 The Corporation may bulletin for locomotive engineer trainees for terminals where a shortage of locomotive engineers exists or is expected to exist. Senior qualified conductors and yard foremen on the bulletin territory who make application therefor will be given full and unprejudiced consideration in the selection of candidates even though they may be junior to other candidate who also make applications on the same bulletin for training at other locations.

While the Arbitrator appreciates the concerns which motivate the grievance, there is nothing in the language of the agreement which supports the Union's position that there is an express or implicit obligation on the part of the Corporation to train the Union's members as locomotive engineers. It is clear from the language of article 57.4 that, in the event a training program is established, senior qualified conductors and yard foremen on the bulletin territory are to have the fullest consideration in being selected as candidates. That, however, is not a circumstance which arises in the case at hand. Nor can the Arbitrator sustain the suggestion that past practice, such as it has existed at Canadian National Railway, can have any application to the interpretation or application of this aspect article 57 of the collective agreement.

For the foregoing reasons the grievance must be dismissed.

July 12, 1996

(signed) MICHEL G. PICHER
ARBITRATOR