

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2778

Heard in Montreal, Tuesday, 8 October 1996

concerning

CANPAR

and

TRANSPORTATION COMMUNICATIONS UNION

DISPUTE:

Work done by a junior employee.

JOINT STATEMENT OF ISSUE:

On December 15, 1995, Mr. R. Chevrier and Mr. Dulude received a notice of temporary layoff. On January 3 and 4, the Company recalled Mr. Dulude who is the junior employee.

Mr. Chevrier has been a lead hand before, and he was available to do the work.

The agreement states: laid off employees will be recalled in seniority order. More. Chevrier should have been called to do the work.

Therefore, Mr. Chevrier claims 8 hours' regular time and 2.5 hours' for overtime for January 3rd and 2.5 hours' overtime for January 4th.

The Company rejected the Union's request.

FOR THE UNION:

(SGD.) R. NADEAU
DIVISION VICE-PRESIDENT

There appeared on behalf of the Company:

P. D. Macleod	– Vice-President Operations, Toronto
R. Dupuis	– Regional Director, Quebec
D. Dulude	– Lead Hand, Boisbriand
P. Cunningham	– Supervisor, Montreal

And on behalf of the Union:

R. Nadeau	– Division Vice-President, Quebec
R. Pichette	– Local Chairman, Montreal

AWARD OF THE ARBITRATOR
(translation)

This grievance cannot be allowed. The Union, which bears the burden of proof, must demonstrate that the grievor, Mr. Chevrier, was capable of performing the duties of "lead hand". In spite of the fact the Mr. Chevrier had worked the job in the past, it is not sufficiently clear, according to the evidence filed, that he possesses the knowledge necessary to perform the new computer operations which are not an essential part of the duties of that position.

For these reasons the grievance must be dismissed.

October 11, 1996

(signed) MICHEL G. PICHER
ARBITRATOR