

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 3120

Heard in Montreal, Thursday, 15 June 2000

concerning

CANPAR

and

TRANSPORTATION COMMUNICATIONS LOCAL 1976 STEELWORKERS

DISPUTE:

The Company's denial of a bump into a lead hand position under article 5.3.1.

JOINT STATEMENT OF ISSUE:

On Friday, April 30, 1999, Mr. Victor Faria was given a displacement notice that he was being displaced by a senior employee, Mr. Jim Thompson.

On Monday, May 03, 1999, Mr. Faria made it known in writing to the Company that he wished to exercise his seniority and displace Tractor Driver-Lead Hand Mr. Tony Ferreira.

On May 11, 1999, Mr. Faria was informed in writing by the P&D Operations Manager Mr. Jack Tucci that Mr. Faria did not have the qualifications required to bump into Mr. Ferreira's position of tractor driver-lead hand.

The Union contends the Company has never stated what qualifications are needed.

The Union maintains that training was given to other employees when they bumped.

The Union asserts that in March, 1999, Regional Manager Mr. Roland Weicht, stated that he would provide anyone that bumped up to a maximum of five days' training.

The Union claims the Company did not provide Mr. Faria the opportunity to prove if he was qualified or not. The Union contends that Mr. Faria has the abilities to do the job and should be allowed a trial or familiarization period in which he can demonstrate his abilities on the lead hand position.

The Union requested that Mr. Faria be allowed to bump Mr. Ferreira.

The Company has denied that request.

FOR THE UNION:

(SGD.) D. NEALE
INTERIM PRESIDENT – LOCAL 1976

FOR THE COMPANY:

(SGD.) P. D. MACLEOD
VICE-PRESIDENT, OPERATIONS

There appeared on behalf of the Company:

P. D. MacLeod – Vice-President, Operations, Toronto

And on behalf of the Union:

D. Neale – Interim President, Hamilton

AWARD OF THE ARBITRATOR

By this grievance employee V. Faria claims that he should be entitled to training when seeking to bump into a lead hand position under article 5.3.1 of the collective agreement.

The collective agreement does deal with the requirement of the Company to give reasonable assistance and the opportunity of orientation to a person moving from one position to another. That, however, is circumscribed to situations of employees bidding by bulletin, in accordance with article 5.1.2, which reads as follows:

5.1.2 An employee who is assigned to a position by bulletin will receive a full explanation of the duties and reasonable assistance and must demonstrate the ability to perform the work within a reasonable probationary period of up to 30 calendar days, the length of time to be dependent upon the character of the work. Failing to demonstrate the ability to do the work within the probationary period allowed, employee shall be returned to former position without loss of seniority.

The foregoing provision has no application in the circumstances of the case at hand. It is common ground that Mr. Faria did not bid onto a vacant head hand position, but sought to displace the lead hand by bumping when he was himself displaced by a senior employee, Mr. J. Thompson. The situation of bumping falls to be dealt with under article 5.3.1 of the collective agreement, the language of which is as follows:

5.3.1 An employee whose position is abolished or who is displaced from his position must displace, within two (2) working days, any full-time junior employee in his local seniority group or, within five (5) working days, any full time junior employee in his district or region for which he is qualified. An employee who fails to comply with said time limit shall not have the right to return to service by displacing a junior employee.

As is clear from the language of the foregoing provision, qualification is a prerequisite to bumping into a position. There is no allowance for the training or orientation which is expressly contemplated when employees obtain a position by bidding on a bulletin. Although the Union seeks to rely on the fact that a supervisor may have made comments to the effect that he would allow people who bump into a position some period of adjustment, I am satisfied that that is more of a common sense understanding to allow, for example, for an individual to become physically oriented to a new route or assignment. It does not, in any event, constitute a collective agreement obligation to provide assistance and formal training for a pre-determined period, as found under article 5.1.2.

It is not disputed that Mr. Faria did not have the qualifications to perform the lead hand function, the content of which involves considerable familiarity with the system of route assignments and work distribution, as well as certain computer skills. There is nothing in the collective agreement which requires the Company to provide training in those matters upon the occasion of a bump.

The grievance must therefore be dismissed.

June 16, 2000

(signed) MICHEL G. PICHER
ARBITRATOR