

**CANADIAN RAILWAY OFFICE OF ARBITRATION
& DISPUTE RESOLUTION**

CASE NO. 3604

Heard in Montreal, Wednesday, 10 January 2007

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

UNITED STEELWORKERS LOCAL 2004

EX PARTE

DISPUTE:

Todd Cotie – travel time claim

UNION'S STATEMENT OF ISSUE:

The Union filed a grievance regarding this dispute on October 13, 2004, claiming the Company had violated article 8.11 of agreement 10.3 of the collective agreement. The Union contends that Capreol is the grievor's home location and he is not paid expenses or travel time while working from his home location. The grievor had been working as a broom operator at Capreol prior to going on a medical leave from August 13, 2004 until September 13, 2004. He was instructed to report to Gang 3P27 to train on an anchor applicator at Nakina for September 15, 2004.

The Union has argued the grievor was subsequently required to train in various locations away from his home location. The Union has argued that each different location should be considered as a separate training session and the Company is therefore obligated to pay expense and time spent travelling to and from each training location. The Union's grievance claims for all travel expenses and time spent travelling to the various locations where the training took place from September 15, 2004 forward.

The Company denied the Union's request to settle the matter in a written response to the grievor postmarked November 10, 2004. The Company contends that Article 8.11 of Agreement 10.3 does not apply to employees with an assembly point. Th[e Company] submits the grievor was a member of Gang 3P27 and his training took place in the locations where the gang was located and as such no monies are owed. The Company further contends that it has not violated the collective agreement.

FOR THE UNION:

(SGD.) A. KANE
STAFF REPRESENTATIVE

There appeared on behalf of the Company:

C. Gilbert	– Manager, Labour Relations, Montreal
A. deMontigny	– Sr. Manager, Labour Relations, Montreal
D. Laurendeau	– Manager, Human Resources, Montreal
E. Leduc	– Manager, Engineering,
S. Ponest	– Supervisor, Work Equipment
D. Pelletier	– Assistant Track Supervisor

And on behalf of the Union:

M. Piché	– Staff Representative
T. Cotie	– Grievor

AWARD OF THE ARBITRATOR

The Union alleges a breach of article 8.11 of collective agreement 10.3 which reads as follows:

8.11 While in training, employees will be paid at the rate of pay they would have received had they not been in training and will be allowed actual reasonable away-from-home expenses necessarily incurred. Time spent travelling, up to a maximum of eight (8) hours each way, will be paid to employees directed by the Company to attend training at an away-from-home location. Should such training be held at a location which is on another Region, then the employees will receive payment for all time travelling to attend such training. The Company will determine the method of travel and payment will be made at the employee's regular rate of pay.

It was pointed out by the Company that the grievor was originally awarded position number GLD 255, a Group II operator position, in response to a special bulletin for the Great Lakes on April 7, 2003. This position has no headquarters and employees are required to report to different assembly points under article 2.11 of collective agreement 10.1. Article 2.11(b) reads:

2.11(b) Assembly points for employees living in Company provided hotels, motels, boarding cars or other mobile units, will be the living accommodation provided. Time for these employees will start and end at the assembly point.

The grievor worked on a broom before taking medical leave in Capreol. I accept the testimony of Mr. Leduc that the grievor requested of Mr. Leduc, during a discussion just before returning from sick leave, to be assigned to Gang 3P27 after being unable to work again on a broom in Capreol. Even in the absence of such a discussion, the Company was within its rights to assign the grievor to a location within the bulletined area in a Group II position. That is exactly what occurred with the grievor's assignment to Gang 3P27 as an anchor applicator, a Group II position. The grievor was unfamiliar with the anchor applicator equipment at the time of his assignment and received training for some three or four days.

The Arbitrator accepts the Company's position that the location of the grievor's residence in Capreol is of no consequence. Article 8.11 requires that expenses and travel time up to eight hours must be paid by the Company when employees are required to attend training at an away-from-home location. The grievor, by virtue of his assignment pursuant to the Great Lakes Special Bulletin, however, is required to report to various assembly points to perform his duties. The grievor was, therefore, not "away-from-home" because his "home" for the purposes of interpreting article 8.11 changes with each assembly point or move. The grievor is therefore entitled to receive the allowances specified under article 22 and Appendix XIII of agreement 10.1, and article 2.11 of Agreement 10.3, for meals, lodging and weekend travel assistance but not those under article 8.11.

For these reasons, the grievance is dismissed.

January 15, 2007

(signed) JOHN M. MOREAU, Q.C.
ARBITRATOR