

**CANADIAN RAILWAY OFFICE OF ARBITRATION
& DISPUTE RESOLUTION
SUPPLEMENTARY AWARD TO
CASE NO. 4078**

Heard in Montreal, April 10, 2014

Concerning

CANADIAN PACIFIC RAILWAY COMPANY

And

TEAMSTERS CANADA RAIL CONFERENCE

There appeared on behalf of the Company:

B. Sly	– Director, Labour Relations, Calgary
G. Deciccio	-- Senior VP Operations, Calgary
D. Guerin	– Director, Labour Relations, Calgary
N. Hasham	-- Legal Counsel, Toronto
T. Schumacher	– GM Transportation, Minneapolis

There appeared on behalf of the Union:

K. Stuebing	– Counsel, Caley Wray, Toronto
D. Olson	– General Chairman, Calgary
D. Able	– General Chairman, Calgary
D. Finnsen	-- Vice President, Calgary
D. Fulton	– Vice General Chairman, Calgary
D. Edwards	– Vice General Chairman, Medicine Hat
B. Hiller	– General Chairman, Toronto
B. Brunet	– General Chairman, Montreal
G. Edwards	-- Vice General Chairman, Revelstoke

SUPPLEMENTARY AWARD

At the outset, the Arbitrator is compelled to agree with the Company that the issues being dealt with herein are confined to the locations of Medicine Hat, Moose Jaw, and Saskatoon. Those are the locations in relation to which the grievance was originally filed and in relation to which the prior Award of this Office in **CROA&DR 4078** must be taken to apply. I am also compelled to accept the submission of the Company that it is simply beyond the jurisdiction of this Office to issue a blanket declaration that employees are entitled to cease work when an alleged violation of the collective agreement is identified. In my view so extraordinary a remedy can only be negotiated within the terms of a collective agreement, in clear and unequivocal terms.

In the instant case, for reasons they best appreciate, the parties have negotiated the payment of a premium of eighty dollars in certain circumstances where crews are required to work beyond ten hours, as reflected in the language of Articles 29.12 and 29.13 of the CTY Collective agreement. Additionally, the Union requests the Arbitrator to direct the provision of additional rest opportunities for employees, depending on the length of time they are required to work over ten hours.

With the greatest respect, it is not the role of the Arbitrator to affectively amend the collective agreement or assume the role of an interest Arbitrator to establish two new terms that the parties themselves have not agreed upon. It is for the parties, and not for the Arbitrator, to fashion such provisions if they deem it appropriate.

I do consider it appropriate, however, to provide the relief which the Union requests, in relation to the payment of the eighty dollar premium which, it appears, has recently been denied to employees required to work beyond ten hours at the Medicine Hat terminal.

For the foregoing reasons, I hereby find and declare that employees who are required to work over ten hours, having given the requisite notice to book rest at five hours, are entitled to the premium payment of eighty dollars, regardless of the work they may be required to perform beyond the ten hour limit. That direction, in my view, merely enforces the agreed to provisions found in Articles 29.12 and 29.13 of the collective agreement.

On the foregoing basis, the grievance is allowed, in part. The Arbitrator finds and declares that employees required to work over ten hours, having given the requisite notice to book rest at five hours, are entitled to the premium payment of eighty dollars contemplated within articles 29.12 and 29.13 of the collective agreement.

April 14, 2014

MICHEL G. PICHER
ARBITRATOR