CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 430

Heard at Montreal, Tuesday, January 8th, 1974

Concerning

CANADIAN PACIFIC TRANSPORT LIMITED

and

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

DISPUTE:

Claim of four and one-half hours' pay at pro rata rates in favour of R. Metz, Warehouse Driver (tractor).

JOINT STATEMENT OF ISSUE:

N. Parkstrom, Warehouse Driver P&D, was called in to Work November 13, 1972, a General Holiday, to perform certain duties, and in addition to perform duties normally performed by a Warehouse Driver (tractor).

The Union claim the Company violated Article 8.5.2(B) of the collective agreement when they did not call R. Metz, a warehouseman-driver (tractor) to perform the tractor duties.

The Company denied the claim on the basis that Mr. Parkstrom was a qualified tractor driver, was senior to Mr. Metz and there was no violation of Article 8.5.2(B).

FOR THE EMPLOYEES: FOR THE COMPANY:

(SGD.) R. WELCH (SGD.) C. C. BAKER

GENERAL CHAIRMAN DIRECTOR, LABOUR RELATIONS AND PERSONNEL

There appeared on behalf of the Company.

D. Cardi – Labour Relations Officer, Montreal

C. C. Baker – Director, Labour Relations & Personnel, Vancouver

And on behalf of the Brotherhood:

R. Welch – General Chairman; Vancouver

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AWARD OF THE ARBITRATOR

Article 8.5.2(b) of the collective agreement is as follows:

> **8.5.2** An employee qualified under Section 8.2 of this Article and who is required to work on a general holiday shall, at the option of the Company:
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> ...

(b) be paid for work performed by him on the holiday in accordance with the provisions of the applicable collective agreement with a minimum of four hours at the pro rata rate for which the equivalent hours of service may be required but employees called for a specific purpose shall not be required to perform routine work to make up such minimum time and, in addition, shall be given a holiday with pay on the first calendar day on which the employee is not entitled to wages following the holiday, pay for such holiday shall be eight hours at the straight time rate of the position worked on the holiday.

Mr. Parkstrom was required to work on a general holiday, and worked over four hours. He worked four hours as a warehouseman-driver, and accordingly received four hours' pay at the appropriate rate and was not called on to do any routine work to make up his minimum time. Thus, there was no violation of Article 8.5.2 (b).

In addition to his four hours' work as a warehouseman-driver, however, Mr. Parkstrom also worked for one-half hour as a tractor driver, for which he was paid at the rate appropriate to that classification. The claim is really that it was improper to have assigned that work to Mr. Parkstrom and that he, the grievor, ought to have been called to do it. If the grievor had been called, then he would have been entitled to four hours' pay, pursuant to Article 8.5.2 (b).

The question is, then, whether it was improper for the Company to assign one-half hour's work as a tractor driver to Mr. Parkstrom. The collective agreement does contemplate the possibility of an employee's being assigned work in another classification than his own, and provides in Article 25 for payment at the higher rate where that is applicable. This procedure could not be used, however, to subvert the regular system of work assignment and classification. In the instant case, Mr. Parkstrom was not, it seems, given an assignment which was unusual, or whose effect was to displace another employee from his regular job. He performs tractor driving duties in the course of his daily employment, receiving the appropriate rate when that is called for. If the only work required to be done had been tractor driving 25 for payment at the higher rate where that is applicable. This the work to a person classified as a tractor driver, but here that work was only a small part of the work available and was properly assigned to an employee in a related classification who did perform such work from time to time in the normal course.

In the circumstances of this case, then, the assignment of work to Mr. Parkstrom was not improper, and the grievor was not entitled to be called in. Accordingly, the grievance must be dismissed.

(signed) J. F. W. WEATHERILL

ARBITRATOR