

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 250

Heard at Montreal, Tuesday, November 10th, 1970

Concerning

CANADIAN PACIFIC EXPRESS COMPANY (CP EXPRESS)

and

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

DISPUTE:

Claim of employee H. McKie, Obico Terminal, for all time held out of service while denied the Unspecified Clerk's position held by junior employee C. Majczyna.

JOINT STATEMENT OF ISSUE:

Employee H. McKie an Intrip Clerk, laid off December 24th, 1969 requested that he be allowed to displace junior employee C. Majczyna, working as an Unspecified Clerk, in the Waybill Department. Article 7.3 (a) reads:

"An employee whose position is abolished or who is displaced from his permanent position must displace a junior employee in his local seniority group for whose position he is qualified."

Employee McKie's request was declined.

At issue is this employee's qualification or lack of qualification to perform the duties of the Unspecified Clerk's position to which he requested that he be allowed to exercise his seniority.

FOR THE EMPLOYEES:

(SGD.) L. M. PETERSON  
GENERAL CHAIRMAN

FOR THE COMPANY:

(SGD.) J. T. HARFORD  
DIRECTOR, PERSONNEL

There appeared on behalf of the Company:

F. E. Adlam	- Industrial Relations Representative, CP Express, Toronto
J. T. Harford	- Director Personnel, CP Express, Toronto
D. R. Smith	- Regional Manager, CP Express, Montreal
J. G. MAcMillan	- Supervisor Personnel, CP Express, Toronto

And on behalf of the Brotherhood:

L. M. Peterson	-	General Chairman, B.R.A.C., Toronto
F. C. Sowery	-	Vice General Chairman, B.R.A.C., Montreal
M. Peloquin	-	Admn. Asst. to Int'l. Vice Pres., BRAC, Montreal
V. P. Gray	-	Grand Lodge Organizer, B.R.A.C., Toronto
G. Duval	-	Local Chairman, Lo. 2303, B.R.A.C., Montreal

#### AWARD OF THE ARBITRATOR

The only issue arising in this case is whether the grievor was qualified to perform the work of C. Majczyna, an Unspecified Clerk, junior to him. There appears to be no question as to the grievor's ability to perform the clerical duties of Mr. Majczyna's position, but his claim was denied by the company because he did not have an Ontario chauffeur's license, and as part of his duties was assigned to drive a company-owned automobile to the International Airport to deliver outgoing Waybills or to the Etobicoke Post Office to pick up incoming Waybills or mail for the Obico Terminal as required.

It was the Union's contention that it was improper for the company to require an Unspecified Clerk to perform work of this nature, and that the grievor would be entitled to the job if this improper requirement were removed. The question of whether it was proper to assign the operation of a vehicle to a person in the classification of unspecified clerk raises, in my view, a different question from the one properly before me on this grievance. The issue here is whether the grievor was qualified to fill the position of Unspecified Clerk held by Mr. Majczyna. The title, Unspecified Clerk refers, not to a particular defined job, but rather to a group of clerical occupations. It is Mr. Majczyna's job, in particular, which is in issue. It was a regular requirement of that job that Mr. Majczyna operate a Company vehicle. It would be another issue whether, for that reason, the job came within some other classification. In any event, the grievor was not in fact qualified to perform the work of this junior employee. Accordingly, he was not entitled to displace him.

For the foregoing reasons, the grievance must be dismissed.

J. F. W. WEATHERILL  
ARBITRATOR