CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 618

Heard at Montreal, Wednesday, June 15,1977

Concerning

QUEBEC NORTH SHORE AND LABRADOR RAlLWAY

and

UNITED TRANSPORTATlON UNION (T)

DlSPUTE:

Claim for days not worked between February 15th through February 21, 1977.

JOlNT STATEMENT OF lSSUE:

Following an illegal work stoppage at Labrador City which affected the operations of the Railway, trainmen were advised at the start of their shifts that no work was available for them.

The Union claims that they should have been given a ten (10-day) notice according to Article 14.02b). They maintain that the affected employees should be reimbursed for the regular shifts they would have worked had such notice been given. The Railway maintains that these employees have no legitimate claim for payment because work was not available due to causes beyond its reasonable control as per Article 3.08 of the Collective Agreement. The grievance was denied.

FOR THE EMPLOYEES:	FOR THE COMPANY:
(Sgd.) G. Robichaud Vice-Chairman	(Sgd.) F. Leblanc Superintendent Labour Relations

There appeared on behalf of the Company:

J.	Bazin	Counsel, Montreal
G. A.	Dolliver	Superintendent, Train Movement, QNS&L.Rly., Sept-lles
J. Y.	Tardif	Assistant-Labour Relations, QNS&L Rly., Sept-Iles
C.	Nobert	Assistant-Labour Relations, QNS&L Rly., Sept-Iles

And on behalf of the Brotherhood:

R.	Cleary	Counsel, Montreal
G.	Robichaud	Vice-Chairman, U.T.U.(T), Sept-lles, Que.

AWARD OF THE ARBlTRATOR

The material provision of the collective agreement is article 14.02 (b) of Appendix "E" to the collective agreement. That article is as follows:

> "b)- In all cases of lay-off of regular employees from the Bargaining Unit due to a curtailment of work, employees will be given ten (10) days notice by posting a notice stating the number of employees so affected. If such notice is not given, the Railway will reimburse the affected employees for the regular shifts they would have worked had such notice been given. Any delays of three (3) days or less caused by the displacement procedure or by emergencies or reasons beyond the control of the Railway shall not be subject to the grievance procedure."

There was no work for the employees during the period in question, because of an illegal strike by employees in another company. The grievors were not given notice of layoff. It may be doubted, however, whether what occurred here was a "lay off" within the meaning of article 14.02 (b). The employees appear to have been advised, prior to their scheduled shifts, that there was no work available. Such was indeed the case, and the causes for this were beyond the reasonable control of the railway. Accordingly, article 3.08 of Appendix "E" applies. That article is as follows:

> "3.08 It is mutually agreed that the provisions of 3.06, 3.07 and 6.01 shall not apply in cases where work is not available due to causes beyond the reasonable control of the Railway."

The articles there referred to are as follows:

> "3.06 An employee who actually begins work in his normal classification and on his regular shift will be paid four (4) hours at the prevailing hourly wage rate of that occupation provided that such employee shall perform other work to which he may be assigned.
>
> 3.07 In the event the employee completes more than four (4) hours' work in his normal classification and on his regular shift, he will be paid a full shift at the prevailing wage rate of that occupation provided that such employee shall perform other work to which he may be assigned. If the standard rate of pay for the job to which the employee is assigned is higher than his normal rate, he shall receive the higher rate of pay for the hours worked at this assignment. If the standard rate of pay for the

job to which the employee is assigned is lower than his normal rate, he shall be paid at the rate of the occupation for which he was originally called or scheduled.

6.01 If an employee reports for work on his regular scheduled shift without having been notified previously not to report, and if sufficient work is not available, he shall be given at least three (3) hours' pay at his regular rate for that day at the standard rate for his occupation."

When these articles are read together, it becomes clear that the grievors would not have been entitled to payment for the time in question, even if it were to be held that article 14.02 (b) applied. In my view, given the specific provisions of article 3.08, article 14.02 (b) does not apply in the circumstances, but even if it does, the grievors would not be entitled to compensation in the circumstances because of the specific provisions of article 3.08 and the other articles referred to. Accordingly the grievance must be dismissed.

J.F.W. WEATHERILL
ARBITRATOR