

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1004

Heard at Montreal, Tuesday, November 9th, 1982

Concerning

CANADIAN PACIFIC EXPRESS LIMITED

and

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

DISPUTE:

The allocation of work to an outside driver service when regular employee R. J. Smith, was available and qualified to perform the duties on overtime.

JOINT STATEMENT OF ISSUE:

October 14th and 15th, 1981, the Company engaged drivers from a Driver Service Group. R. J. Smith, qualified vehicleman grieved on the grounds he was available to perform these duties on overtime.

The Brotherhood requested he be paid the sixteen hours these driver services worked on the above dates.

The Company declined the claim.

FOR THE BROTHERHOOD:

(SGD.) J. J. BOYCE  
General Chairman, System Board  
of Adjustment No. 517

FOR THE COMPANY:

(SgD.) DI R. SMITH  
Director, Industrial  
Relations,  
Personnel and Administration.

There appeared on behalf of the Co?pany:

D. R. Smith - Director, Labour Relations & Administration,  
CP Express, Toronto  
B. D. Neill - Manager, Labour Relations, CP Express, Toronto  
P. E. Timpson - Labour Relations Officer, CP Rail, Montreal

And on behalf of the Brotherhood:

J. J. Boyce - General Chairman, System Board of Adjustment No.  
517, BRAC, Toronto  
Jack Crabb - Vice-General Chairman, BRAC, Toronto  
M. Gauthier - Vice-General Chairman, BRAC, Toronto

AWARD OF THE ARBITRATOR

The Company contracted-out the performance of certain work which was of a sort normally performed by members of the bargaining unit.

This, as other cases have held, was not a violation of the Collective Agreement. The contracting-out did not result in the layoff of any employees, although it may have affected the extent to which employees might have been offered work on an overtime basis.

While contracting-out was not itself a violation of the Collective Agreement, the grievor alleges that it reveals that there was work available which he could have performed on an overtime basis.

Quite apart from any question as to the propriety of assigning some or all of the work in question to the grievor (which might have led to a violation of the Canada Labour Code - a matter on which I make no determination - ), nothing in the Collective Agreement entitles an employee to claim as of right certain work which is done for the Company's account by persons other than its own employees. There are provisions relating to the assignment of overtime work, but nothing allows a full-time employee such as the grievor to require the Company not to contract-out the work, but to assign it to him on an overtime basis.

As there has been no violation of the Collective Agreement, the grievance must be dismissed.

J. F. W. WEATHERILL,  
ARBITRATOR.