

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1105

Heard at Montreal, Tuesday, June 14, 1983

Concerning

ONTARIO NORTHLAND RAILWAY

and

UNITED TRANSPORTATION UNION

EX PARTE

DISPUTE:

Claim of Bus Operator C. McAlpine for pay for October 15th and 16th, 1982.

EMPLOYEES' STATEMENT OF ISSUE:

Following his annual vacation, Bus Operator McAlpine returned to his regular position of relieving in Crew #27, whereas to complete the last eight (8) days in the fourteen day pay period, October 9 to October 22, 1982 inclusive. Mr. McAlpine submitted a claim for October 15th and 16th, 1982 which were his open days in accordance with the bulletining procedure of the vacation relief position as outlined in the letters from the company dated March 20, 1980 and March 27, 1980 respectively.

Since the company did not utilize Mr. McAlpine October 15th and 16th, 1982, as per Article 6.2, the union contends that Mr. McAlpine should therefore be paid in accordance with Article 6.1.

The company denies payment for this claim.

FOR THE UNION:

(SGD.) B. F. NEWMAN  
General Chairman.

There appeared on behalf of the Company:

A. Rotondo - Manager Labour Relations, ONR, North Bay  
J. H. Singleton - Manager Passenger Services, ONR, North Bay

And on behalf of the Union:

J. Sandie - Vice-President, UTU, Sault Ste. Marie  
Ewart Fulford - Local Chairman, 1161, UTU (Bus), North Bay

AWARD OF THE ARBITRATOR

The grievor held the bulletined position of Vacation Relief on Crew 27. During pay period 22, the grievor himself was on vacation from October 9 to October 14, 1982. It would appear that he was available for work on October 15 and 16, but he was not assigned work on those days, and he claims payment therefor, pursuant to Article 6 of the Collective Agreement.

Article 6 is as follows:

"Assignments and Duties

6.1 Employees regularly assigned as Motor Coach Operators who are ready for duty the entire month and who do not lay off of their own accord will be guaranteed ten days pay (at operator's rate) and four assigned rest days in each 14 day pay period.

6.2 When earnings in regular assignments do not equal 10 days' pay in a 14 day pay period, extra service may be required to complete the guarantee. Such extra service may include keeping garage in a neat and tidy condition, driving extra or charter buses or any other duties in connection with this branch of the service.

6.3 Motor Coach Operators working only a portion of a pay period will be paid their proper proportion of the above guarantee."

The Company did, by letter of March 27, 1980, agree that vacation relief assignments would be subject to Article 6.1 and 6.2. Thus, the grievor was entitled to the same guarantee as a regularly assigned employee, which is a guarantee of ten days' pay and four assigned rest days in each fourteen day period.

During pay period 22 (October 9 - 22 inclusive), the grievor's earnings (inclusive of vacation pay), were in excess of the guaranteed amount. Had this not been the case, the Company would have had to pay the guaranteed amount in any event, although it might have required the grievor to perform extra service to complete the guarantee. Such service may be required on "open days", although not, it would seem, on rest days.

Since, in the instant case, the grievor earned more than the guaranteed amount, the Company's obligation under Article 6 was fully met, and there was no violation of the Article.

There is no basis for any claim for additional payment under the Collective Agreement. Accordingly, the grievance must be dismissed.

J. F. W. WEATHERILL,  
ARBITRATOR.