CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1360

Heard at Montreal Thursday, May 16, 1985

Concerning

CP EXPRESS AND TRANSPORT

and

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

EX PARTE

DISPUTE:

Claim by employee D. Marks, Montreal, Quebec, for two hours wages at regular rate of' pay for the period of May 24th to May 27th, 1983.

BROTHERHOOD'S STATEMENT OF ISSUE:

On the dates in question employee D. Marks was working on a part time basis (six hours per day), when a junior employee V. Stanacie was working full time eight hours per day.

The Brotherhood contends senior employee D. Marks should have been allocated the full time position as she was qualified and claimed the two hours per day.

The Company declined the claim.

FOR THE BROTHERHOOD:

(SGD.) J. CRABB
FOR: General Chairman, System Board
of Adjustment No. 517

There appeared on behalf of the Company:

N. W. Fosbery - Director, Labour Relations, CPE&T, Toronto

And on behalf of the Brotherhood:

J. J. Boyce - General Chairman, BRAC, Don Mills
G. Moore - Vice-General Chalrman, BRAC, Moose Jaw

AWARD OF THE ARBITRATOR

The only issue that requires resolution in this dispute is whether the company imposed an unreasonable or improper qualification that an employee be bilingual in order to provide relief work in operating the company's telex at its business premises in Lachine, P.Q. In this

regard, the grievor, Ms. June Marks, complains she was improperly by-passed for a less senior employee with respect to two hours of relief work on the telex machine because she could not speak French. The less senior employee who performed the relief work and who was paid the premium for the two hours she worked was bilingual.

The company's reason for requiring its telex operators to hold bilingual qualification, particularly with ?espect to being conversant in the French language, is motivated by the enactment of Bill 101 by the Province's Legislative Assembly. Bill 101 reads in part as follows:

> "Communications with public and private sectors:
>
> 2. Every person has a right to have the civil administration, the health services and social services, the public utility firms, the professional corporations, the associations of employees and all business firms doing business in Quebec communicate with him in French.
>
> Consumers:
>
> 5. Consumers of goods and services have a right to be informed and served in French."

Although the grievor may very well have performed relief services in the past on the telex machine, it is patently obvious that the wcrk environment affecting businesses in the Province of Quebec has been dramatically affected by the enactment of Bill 101. Although it might very well be argued that the company, insofar as it is a Federal undertaking, remains unaffected by Bill 101, common sense would dictate that, where possible, it should make a reasonable attempt to accommodate its operations to the language prescriptions of the Province in which it does business. Since I cannot find that the requirement that an employee be conversant in both the English and French languages is an unreasonable qualification to be imposed on employees whose jobs require contact with the public in the Province of Quebec, the grievor, in my view was properly by-passed with respect to the relief work in question.

The grievance is accordingly dismissed.

DAVID H. KATES,
ARBITRATOR.