CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1411
Heard at Montreal, Tuesday, October 8, 1985

Concerning

CANADIAN PACIFIC LIMITED (CP RAIL)

and

BROTHERHOOD OF RAILWAY, AIRLINE & STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES
BOARD OF ADJUSTMENT #14

DISPUTE:

Claim for wages deducted from employees' salary due to being sent home early and for employees prevented from commencing their shift, due to a bomb threat.

JOINT STATEMENT OF ISSUE:

On September 10, 1984, prior to noon, the Company evacuated Angus Shops, due to a bomb threat.

Employees were sent home while others were prevented from commencing their shift.

The Company reduced their wages for the lost working hours.

The Union contends the employees' salary should not have been reduced.

It is the Union's position, the Company violated Articles 8.1 and 25.6 of the Collective Agreement.

The Union requests full restitution for affected employees.

The Company claimed there was no violation of the Collective Agreement and denied the claim.

FOR THE BROTHERHOOD:

(SGD.) J. MANCHIP
General Chairman,
BRAC Board #14

FOR THE COMPANY:

(SGD.) R. L. BENNER
Manager of Materials.

There appeared on behalf of the Company:

R. L. Benner	- Director, Materials, CPR, Montreal
J. Viens	- Manager, Materials, Eastern Region, CPR, Montreal
P. Macarone	- Supervisor, Training & Accident Prevention, Materials, CPR, MontreaI
P. E. Timpson	- Labour Relations Officer, CPR, Montreal
G.M. Booth	- Personnel Manager, Finance & Accounting, CPR, Montreal

And on behalf of the Brotherhood:

J. Manchip	- General Chairman, Board #14, BRAC, Montreal
C. Pinard	- Local Chairman, BRAC, Montreal
J. Germain	- Local Chairman, BRAC, Montreal

AWARD OF THE ARBITRATOR

In the face of a bomb threat the company, on September 10, 1984, was forced to cut short the employees' tour of duty on the day shift and to cancel the entire tour of duty for the afternoon shift.

The parties do not dispute that the company's action was prudent. Or, from a different perspective, the interruption and cancellation of tho emp1oyees' tour of duty was beyond the control of both employer and employee.

It is my view that no provision of the parties' collective agreement provides income protection to an employee who is prevented from reporting to work or from continuing to work because of a supervening event that is beyond his or her control. Unlike some collective agreements that provide for "special leave with pay" where a force majeure prevents employees from performing their work duties this particular collective agreement extends no such benefit.

The trade union, accordingly, has attempted to apply Articles 8.1 and 25.6 of the collective agreement to fit the particular circumstances of this case in order to provide the benefit of a day's pay that was not anticipated by the parties under the collective agreement. As the company has successfully argued those provisions that werc relied upon by the trade union were designed for purposes that do not pertain to the unique circumstances that prevent the discharge of employment due to a supervening event beyond both partios' control. In the case of ArticIe 8.1 the guarantee of a minimum days pay is ensured where the practice has been to work less than eight hours per day. And, in the case of Article 25.6 a minimum four day period is requircd to effect notice of redundancy due to a reduction in the company's manpower requirements.

Since neither of these circumstances applied to the situation of an attenuated shift or a cancellation of a shift due to a bomb scare I am satisfied that no violation of the pay provisions of the collective agreement has been estabIished.

Accordingly, the grievance is denied.

DAVID H. KATES,
ARBITRATOR.