

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1526

Heard at Montreal, Wednesday, June 11, 1986

Concerning

ONTARIO NORTHLAND RAILWAY

and

BROTHERHOOD OF RAILWAY, AIRLINE CLERKS

DISPUTE:

Claims for automobile mileage expenses \$79.04, Relief Dispatcher L. K. Toye.

JOINT STATEMENT OF ISSUE:

On Nov. 7, 1985 Mr. Toye was sent a message at North Bay, Ontario to report as Relief Dispatcher at Englehart to commence work at 1600 hours Nov. 8, 1985. Instead of travelling on the company bus, Mr. Toye used his own automobile and submitted a claim for automobile expenses. His claim was not allowed as he had not received the prior authority required by Article 18.5 of the Collective Agreement.

FOR THE BROTHERHOOD:

(SGD.) S. C. RUTTAN  
Vice-General Chairman

FOR THE COMPANY:

(SGD.) P. A. DYMENT  
General Manager

There appeared on behalf of the Company:

A. Rotondo - Manager Labour Relations, ONR, North Bay  
W. R. Deacon - Trainmaster & Rules Instructor, ONR,  
Englehart  
J. H. Huisjes, P.Eng-Superintendent, Maintenance of Way, ONR,  
North Bay

And on behalf of the Brotherhood:

S. C. Ruttan - Vice-General Chairman, BRAC, Porquis Junction

AWARD OF THE ARBITRATOR

Article 18.5 of the collective agreement reads as follows:

"When privately owned automobiles are used by employees to travel between work locations or from their headquarters to a work location, such employees, who receive prior authority from the Chief Dispatcher, will be reimbursed effective January 1, 1983 at 31 cents per mile (19.62 cents per km)..."

In these particular Cases #1526 and #1527, the two employees, Messrs L. K. Toye and G. Armstrong were allegedly summoned on short notice

to relieve regular employees who had booked off. In the one case the employee was called off the spareboard and in the other the employee was recalled from lay off status.

Because of the short notice the grievors used their own automobiles to travel to their work place. In each case the company denied their request for the travel allowance under Article 18.5 because no "prior authority" was requested or received for use of their automobiles.

For purposes of these cases I am prepared to assume without necessarily finding that the grievors were called on short notice and thereby were warranted in using their own automobiles rather than using public transportation to travel to the work places.

The other assumption I am prepared to make is that in an appropriate circumstance the company may be required to extend its "prior authority" retroactively. That is to say, there may very well be situations where the employee, for a legitimate reason, cannot secure permission to use his car for travel purposes until after he has arrived at work.

The company's concern in this case, however, is that the employees in question each had the opportunity to request authorization to use their own cars but deferred doing so. That is to say, when the company dispatcher called the grievors to report for work (albeit on short notice) that was the time that they should have requested permission.

As a result of their failure to make a request for the mileage allowance in advance of reporting for work when the opportunity presented itself, I am of the view that the grievors cannot claim they were improperly denied "prior authority" after the fact. Or from another perspective, had the grievors asked for permission to use their automobiles prior to reporting for work and were denied the necessary prior authorization then, obviously, a different result may have followed.

The grievances are therefore denied.

DAVID H. KATES,  
ARBITRATOR.