

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1547

Heard at Montreal, Thursday, July 10, 1986

Concerning

ALGOMA CENTRAL RAILWAY

and

UNITED TRANSPORTATION UNION

DISPUTE:

Claim of the Organization with respect to Trip Ticket Claim Yard Helper J. Hutt for 8 hours at Yard Foreman's punitive rate of pay for November 17, 1985.

JOINT STATEMENT OF ISSUE:

Trainman J. Hutt, employed as a Yard Helper in Yard Service in Steelton Yard, submitted a time claim for not being called as Yard Foreman to pilot the hoist which was engaged in unloading scrap material at Mileage 4.

The Organization has requested that the Company pay this claim under the terms of a letter of agreement on Page 204 of the Collective Agreement.

The Company declined the request of the Organization.

FOR THE UNION:

(SGD.) J. SANDIE
General Chairman

FOR THE COMPANY:

(SGD.) V. E. HUPKA
FOR: Vice-President -
Rail

There appeared on behalf of the Company:

Victor E. Hupka - Manager, Industrial Relations, ACR, Sault Ste. Marie
Newell L. Mills - Superintendent, ACR, Sault Ste. Marie

And on behalf of the Union:

J. Sandie - General Chairman, UTU, Sault Ste. Marie

AWARD OF THE ARBITRATOR

The uncontradicted evidence established that the company had violated its Letter of Agreement (Page 204, Collective Agreement) by not using a Conductor-Pilot to pilot a hoist engaged in unloading scrap metal material at Mileage 4 outside the Steelton Yard.

The grievor claims he should have been called in off his rest day to

have performed that function. He therefore claims payment at the appropriate punitive rate.

The grievor's claim, however must be denied. Although the company was in obvious breach of the collective agreement the grievor never took the necessary steps to make himself available to perform the pilot's duties by placing his name on the spareboard. Because he was not available the company owed him no obligation to call him in to work from his rest day.

Accordingly the grievance is denied.

DAVID H. KATES,
ARBITRATOR.