CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1752

Heard at Montreal, Wednesday, 10 February 1988

Concerning

VIA RAIL CANADA INC.

And

CANADIAN BROTHERHOOD OF RAILWAY,
TRANSPORT AND GENERAL WORKERS

DISPUTE:

Time claim for four hours pay on behalf of all employees required to report for instructions regarding the outfitting of new uniforms.

BROTHERHOOD'S STATEMENT OF ISSUE:

With the implementation of the new design uniform in accordance with Article 15 of Collective Agreement No. 2, a notice was advertised at Winnipeg in the Employee Service Centre (ESC) requesting employees to come between the hours of 0800 and 1600 Monday to Friday to be outfitted. Employ-ees were also contacted either upon arrival of their trains, or by telephone. Further, arrangements were made whereby a tailor visited the work location on a pay day.

The Brotherhood grieved the matter and has cited the provisions of Article 16.2 of Collective Agreement No. 2 as the manner in which regularly assigned and spare employees are to be compensated when under such directions by the Cor-poration.

The Corporation maintains there is no violation of Ar-ticle 16.2 of Collective Agreement No. 2. Employees have never been compensated for the outfitting of uniforms in the past. The Corporation has therefore denied the Brother-hood's claim.

FOR THE BROTHERHOOD:

(SGD) TOM McGRATH
National Vice-President

There appeared on behalf of the Company:

M. St. Jules	- Manager Labour Relations, Montreal
C.O. White	- Labour Relations Officer, Montreal
C. Pollock	- Labour Relations Officer, Montreal
J. Kish	- Officer Personnel and Labour Relations, Montreal
A. Jalbert	- Project Manager, Uniform & Grooming Montreal

And on behalf of the Brotherhood:

A. Cerilli - General Chairman, Winnipeg

AWARD OF THE ARBITRATOR

As noted in C.R.O.A. 310 a claim for an entitlement to wages is "a question of fact, to be determined according to the circumstances obtaining in any particular case." In the instant case the material establishes that employees in On-Board Services were required by the Corporation to attend, during their own time, to be fitted for new uniforms. The Collective Agreement makes no provision for the payment of employees for time spent in being fitted for uniforms. It is also common ground that over many years of practice employees have never been paid for time spent in such circumstances. The Arbitrator is satisfied that, in so far as it is based on the claim that employees are entitled to be paid for the time to be fitted for uniforms, the Brotherhood's position cannot succeed.

That is not the end of the matter, however. The claim is advanced under Article 16.2 of Collective Agreement No.2. It is common ground that it has been the employer's practice to pay employees under the provisions of that article when they are required to undergo training, including training other than the periodic training made available for the purposes of promotion from one classification to another. An example cited is the training recently given to employees as a means of orientation to the new crewing system recently implemented by the Corporation. The material in the instant case discloses that all employees who were required to attend for uniform fittings were also required, at the same time, to view a brief video prepared by the Corporation for the purpose of giving them orientation into the reasons underlying the decision to implement new uniform designs. The video, placed in evidence before the Arbitrator, impresses upon employees the need to project to the public an appearance of efficient service and professionalism, stressing the need for quality and consistency in the appearance of On-Board Service personnel across Canada. While it is true that the video presentation is upbeat in form, and is something less than a highly detailed or technical training film, it is established beyond dispute that all employees were required to view it. There appears to be little doubt that the failure of an employee to do so could subject him or her to a measure of discipline, as could an employee's subsequent failure to adhere to the standards of the uniform dress code so communicated to them. In these circumstances the Arbitrator must conclude that the obligation imposed upon the employees falls within the ambit of Article 16.2 of the Collective Agreement and the claim for payment advanced by the Brotherhood is, on that basis, well founded.

For the foregoing reasons the grievance must be allowed, and all employees are to be compensated accordingly. For the purposes of clarity, nothing in this decision should be taken as supporting the Brotherhood's claim that employees are entitled to be compensated under the Collective Agreement for their own time spent in being fitted for uniforms. The Arbitrator retains jurisdiction in the event of any dispute between the parties respecting the

interpretation or implementation of this award.

MICHEL G. PICHER
ARBITRATOR