

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2051

Heard at Montreal, Wednesday, 12 September 1990

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

And

CANADIAN BROTHERHOOD OF RAILWAY,  
TRANSPORT AND GENERAL WORKERS

DISPUTE:

An alleged violation of Article 28.9(1) of Agreement 5.1, as a result of employees not represented by the Brotherhood refuelling refrigeration units at Symington.

JOINT STATEMENT OF ISSUE:

For the past number of years, the Company has utilized Carmen to inspect and when required, refuel refrigeration units.

The Brotherhood contends that all work relating to the refuelling of refrigeration units falls within the scope of Agreement 5.1 and must therefore be performed by its members.

The Company disagrees.

FOR THE BROTHERHOOD:

(SGD) TOM McGRATH  
NATIONAL VICE-PRESIDENT

FOR THE COMPANY:

(SGD) W. W. WILSON  
for: ASSISTANT VICE-PRESIDENT  
LABOUR RELATIONS

There appeared on behalf of the Company:

D. McMeekin                    System Labour Relations Officer, Montreal  
B. R. O'Neill                 Research Officer, Montreal

And on behalf of the Brotherhood:

A. Cerilli                     Regional Vice-President, Winnipeg

AWARD OF THE ARBITRATOR

The Arbitrator cannot find on the basis of the authorities and materials filed, that the Brotherhood is entitled to claim exclusive

work jurisdiction to the refuelling of refrigeration units. The evidence establishes that for many years carmen have performed the duties associated with the refuelling of refrigeration cars at Symington Yard, although that work has also been done on occasion by members of the Brotherhood. For the reasons related in a number of prior decisions of this Office, the Brotherhood's claim cannot be sustained (See CROA 2006 and 527). This finding is clearly without prejudice to such rights as the Brotherhood may have in respect of any separate claim regarding the loading and unloading of railway tank cars and storage tanks.

For the foregoing reasons the grievance must be dismissed.

September 14, 1990

MICHEL G. PICHER  
ARBITRATOR