

TRANSLATION

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2355

Heard at Montreal, Wednesday, 14 April 1993

concerning

QUEBEC NORTH SHORE & LABRADOR RAILWAY

and

UNITED TRANSPORTATION UNION

DISPUTE:

Application of Letter of Understanding # 22 - Medical
Certificates.

JOINT STATEMENT OF ISSUE:

The Union claims that the Railway violated Letter of
Understanding #22 in requiring a medical certificate from
employees who are absent for fourteen (14) days or less and that
these absences are not abusive.

The Railway rejects the grievance and maintains that a medical
certificate may be required when the absence or the absences are
deemed to be abusive in accordance with Letter of Understanding
#22.

FOR THE UNION:FOR THE COMPANY:

(SGD.) B. ARSENAULT(SGD.) A. BELLIVEAU

GENERAL CHAIRMANDIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

R. Monette - Counsel, Montreal

A. Belliveau - Director, Human Resources, Sept-Iles

R. L. Plourde- Superintendent, Transportation and Traffic,
Sept-Iles

And on behalf of the Union:

R. Cleary - Counsel, Montreal

B. Arsenault - General Chairman, Sept-Iles

AWARD OF THE ARBITRATOR

Letter of Understanding No. 22 reads as follows:

The Railway will not require an employee booking sick, for fourteen (14) days or less, to provide medical proof for any of these absences inasmuch as they are not abusive.

Employees booking sick for more than fourteen (14) days must submit a medical certificate to the terminal office before they can book themselves available.

(translation)

The evidence establishes that for certain statutory holidays the Company required a medical certificate from all employees who booked sick for the day in question. In the Arbitrator's opinion, the wording of the Letter of Understanding does not allow the employer to make the presumption that an absence is abusive based on the simple fact that the employee is absent on the occasion of the holiday. In some collective agreements employers have reserved the right to demand medical evidence for all absences for illness on a statutory holiday. Letter of Understanding No. 22 does not give such a right. On the contrary, it requires, in implicit fashion, that there must be at least a reasonable basis for the suggestion that an absence for illness is abusive before allowing the Company to require a medical certificate. The simple coincidence of an absence and a statutory holiday is not sufficient to establish that an absence is "abusive" within the meaning of the collective agreement.

For the foregoing reasons the grievance is allowed. The Arbitrator declares that the stated policy of the Company, to the effect that all employees who book sick on a holiday are required to provide a medical certificate is incompatible with the terms of Letter of Understanding No. 22 and of the collective agreement.

April 16, 1993(Sgd.) MICHEL G. PICHER

ARBITRATOR