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CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2451

Heard in Montreal, Wednesday, 9 February 1994
concerning
CANADIAN PACIFIC LIMITED

and
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

EX PARTE

DISPUTE:

Surfacing gangs working without an Extra-Gang Foreman.

EX PARTE STATEMENT OF ISSUE:

On a number of occasions in 1992 Surfacing Gangs worked on the Calgary Division without an Extra-Gang Foreman in charge. Pursuant to a Special Bulletin dated April 28, 1992 the grievor, Mr. P. Arter, was awarded the position of Surfacing Gang Foreman for the 1992 work season on the Calgary Division. Mr. Arter was removed from this position on June 28, 19982.

The Union contends that: by not appointing the appropriate employees to the Extra-Gang Foreman positions and by not filling the resulting temporary vacancies the Company has violated Sections 14.1 and 14.4(a) (b) of the collective agreement.

The Union requests that: 1. Mr. Arter and all senior qualified employees who would have been available for the subsequent temporary vacancies be compensated for all lost wages and benefits and that; 2. the Company practice of establishing small Extra-Gangs at various locations without an Extra-Gang Foreman be prohibited.

THE COMPANY DENIES THE UNION'S CONTENTIONS AND DECLINES THE UNIONS REQUEST.

FOR THE BROTHERHOOD:

(SGD.) D. MCCracken

SYSTEM FEDERATION GENERAL CHAIRMAN

There appeared on behalf of the Company:

R. M. Andrews - Labour Relations Officer, Vancouver
D. T. Cooke - Labour Relations Officer, Montreal
R. Wedel - Assistant Division Engineer, Alberta Division,
Calgary

D. L. Johnson - Benefit Plans Officer, Montreal

And on behalf of the Brotherhood:

D. Brown - Senior Counsel, Ottawa
D. McCracken - System Federation General Chairman, Ottawa
K. Deptuck - Vice-President, Ottawa
R. Della Serra - Federation General Chairman, Ottawa
P. Davidson - Counsel, Ottawa

At the hearing the parties agreed that the decision of the Arbitrator would be delayed until a related grievance concerning Mr. Arter had been progressed to arbitration and heard.

AWARD OF THE ARBITRATOR