CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2455

Heard in Montreal, Thursday, 10 February 1994
concerning
VIA RAIL CANADA INC.

and
CANADIAN BROTHERHOOD OF RAILWAY, TRANSPORT & GENERAL WORKERS

DISPUTE:

The proper method of compensation for regularly assigned On-Train Services employees while attending training.

JOINT STATEMENT OF ISSUE:

A number of employees governed by Collective Agreement No. 2 were offered to be trained as Service Coordinators during the month of November 1992, which prevented them from working their assignment.

The Brotherhood contends that the grievors should be paid under the provisions of Article 16.2(b) for the days that they were unable to work their assignments by virtue of said training and that they should also be compensated under the provisions of Article 16.2(a) for the days they would otherwise have been on layover.

The Corporation maintains that the grievors were properly compensated for the duration of the training. The Corporation denies any violation of the Collective Agreement.

FOR THE BROTHERHOOD:	FOR THE CORPORATION:
(SGD.) T. N. STOL	(SGD.) C. C. MUGGERIDGE
NATIONAL VICE-PRESIDENT	DEPARTMENT DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Corporation:

C. Pollock - Senior Labour Relations Officer, Montreal
J. Santone - Manager, Train Services, Montreal

And on behalf of the Brotherhood:

A. Wepruk - Regional Vice-President, Montreal

AWARD OF THE ARBITRATOR

This grievance turns of the application of articles 16.2(a) and 16.2(b) of the collective agreement which are as follows:

> 16.2(a) Assigned employees directed to undergo training during layover days shall be paid for actual hours spent in training at the pro rata rate of their assigned classification with a minimum of four hours in each 24-hour period. Such time shall be paid over and above guarantee and shall be included in the accumulation of hours under article 4.2(b).
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> 16.2(b) Assigned employees directed to undergo training which makes it impossible to fulfill their assignment will be credited with actual hours spent in training but not less than the ORS hours of their

assignment. Such time will be paid at the rate of their assigned classification and will be applied against guarantee and included in the accumulation of hours under article 4.2(b).

The evidence before the Arbitrator establishes that the employees who are the subject of the grievance were effectively removed from their assignments by reason of their participation in the training program. For example, employee J.C. Richard was scheduled to work his assignment on trains 23 and 26 from November 8 through November 11, and to be on layover from November 12 through November 14. In fact, he was in classroom training from November 9 through November 13, and was on a training trip from November 14 through 17 and on layover from November 18 through November 21.

In the Arbitrator's view the facts disclose a circumstance which falls within the contemplation of article 16.2(b) of the collective agreement. Specifically, the circumstances of the training made it impossible to fulfill the employees' assignments. I am satisfied that the Corporation was correct in concluding that the employees were to be paid under the terms of article 16.2(b), and that no further payment is due by virtue of article 16.2(a). The material before the Arbitrator establishes that for something in excess of twenty years the Corporation has applied article 16.2(a) in the limited circumstance of training which occurs entirely during the course of layover days. Absent any contrary indication in the language of the collective agreement, I am satisfied that that is a reasonable interpretation, and that it is supported by the apparent acquiescence of the Brotherhood over a substantial period of time. It also appears that on least one prior occasion the Corporation successfully argued the position which it takes in this case, causing the Brotherhood to withdraw its grievance, apparently based on the provisions of article 4.27(a). On the whole of the material the Arbitrator is satisfied that the interpretation applied by the Corporation is correct.

For these reasons the grievance must therefore be dismissed.

11 February 1994 (sgd.) MICHEL G. PICHER
ARBITRATOR