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CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2539

Heard in Montreal, Tuesday, 8 November 1994

concerning

CanPar

and

Transportation Communications Union

DISPUTE:

The Company utilizes Burnaby, B.C. employee G. Hubschi to provide relief on twenty (20) or more delivery routes within the Burnaby Terminal, but refuses to pay him the float drivers' premium.

JOINT STATEMENT OF ISSUE:

Article 5.2.13(4) of the collective agreement states "In any centre where a current employee is required to handle fifteen (15) or more routes he will be considered a float driver and receive the \$0.50 per hour premium".

The Union asserts that because this employee has the knowledge to provide relief on twenty (20) or more delivery routes he is entitled to be compensated as a float driver.

The Company disagrees and declined the Union's grievance.

FOR THE UNION : FOR THE COMPANY:

(SGD.) D. G. Graham (SGD.) P. D. MacLeod

FOR: Executive Vice-President Director, Linehaul/Safety

There appeared on behalf of the Company:

P. D. MacLeod - Director, Linehaul/Safety, Toronto

B. F. Weinert - Director, Labour Relations, CPET, Toronto

And on behalf of the Union:

D. Dunster - Executive Vice-President, Trucking, Ottawa

AWARD OF THE ARBITRATOR

The grievance in the case at hand must stand or fall on the application of article 5.2.13(4) of the collective agreement which provides as follows:

5.2.13 Float Driver Positions

4. In any centre where a current employee is required to handle 15 or more routes he will be considered a float driver and will receive the \$0.50 per hour premium.

In the material before the Arbitrator it is not disputed that Mr. Hubschi has, as a relief employee, been assigned to work on fifteen or more routes, and has acquired a reasonable familiarity with them. On that basis the Union asserts that the article should apply, and that Mr. Hubschi should be entitled to the payment of the float driver premium.

If the case at hand involved a straight forward application of the language of the article the Union's case would be compelling. However, the unrebutted evidence advanced by the Company is that article 5.2.13 (4) was negotiated in 1986 and was intended to apply to then current employees who would, on a grandparenting basis, be entitled to receive the float driver premium by reason of their handling 15 or more routes. The Arbitrator is satisfied that the use of the word "current" in paragraph (4) sustains the interpretation advanced by the Company. That word would be redundant, unless it were to designate the employees who were currently employed at the time the collective agreement provision was negotiated. The paragraph is, therefore, like others in the

collective agreement, a vestige which, from its inception was not intended to have any operation beyond the protection of the grandparented employees covered by its original application, in 1986, on a one-time basis.

The case at hand does not, on its face, involve a claim by the Union that the Company failed to bulletin float driver positions at the Burnaby Terminal. That issue need not be addressed, therefore, by the Arbitrator, and the outcome of this award is without prejudice to the right of the Union to deal with that matter, should that issue arise.

For all of the foregoing reasons the grievance must be dismissed.

11 November 1994 _____

MICHEL G. PICHER
ARBITRATOR