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*No. 101*

PUBLIC SERVICE STAFF RELATIONS ACT  
BEFORE THE PUBLIC SERVICE STAFF RELATIONS BOARD

BETWEEN:

J.A. POITRAS,

grievor,

AND:

TREASURY BOARD  
(Transport Canada),

employer.

DECISION

Before: J. Maurice Cantin, Q.C., Vice-Chairman

For the grievor: F. Petrauskas

For the employer: P. Hamel, counsel

*copy BOB  
RETURN RAM  
20/8/83*

*ART 9  
CODE 402/82*

Heard at Montreal, Québec, September 7, 1983.

*EXPENSES FOR FAM FLIGHT  
WHEN RETURN FLIGHT WAS BOOKED  
AND CONTROLLER WAS BUMPED OFF FLIGHT.*

DECISION

This is a reference to adjudication pursuant to paragraph 91(1)(a) of the *Public Service Staff Relations Act*.

The grievor, J.P. Poitras, is an air traffic controller. He grieves that the employer is in violation of article 8.03 of the collective agreement between the Treasury Board and the Canadian Air Traffic Control Association, covering *inter alia* all traffic controllers in Area Control Centres. This collective agreement has an expiry date of December 31, 1982 and bears code 402/82. The article reads as follows:

8.03 The Employer shall provide familiarization flights as follows:

(a) IFR Controllers and Shift Supervisors

One (1) return flight each year involving not more than three (3) days' absence from his normal place of duty. These flights will be scheduled to include every five (5) years, a long range navigational flight or a visit to a U.S.A. high density unit.

(b) VFR Controllers and Shift Supervisors

One (1) return flight each year involving not more than two (2) days' absence from his normal place of duty. These flights will be scheduled to include:

(i) Within His Region

Towers at a classification level equal to or higher than that of the employee's Unit, and, to the Area Control Centre with IFR responsibility for his Airport;

or

(ii) To an Immediately Adjacent Canadian Air Services Region

is a "space available" pass, and departed from Mirabel via AT 4627 to Casablanca on September 25th, 1982.

- 6° On October 2, 1982 the Grievor attempted to board the Air Maroc flight for his return to Montreal but was advised that the flight was over-sold and that the airline could not honor his pass for that flight, with the next flight scheduled to depart for Montreal on October 9, 1982.
- 7° The grievor returned from Casablanca via Paris, France on AF 2016 to Paris on October 2, 1982, with an overnight stay in Paris, on October 3, 1982 on AF 033 to Mirabel, at his expense i.e., the grievor purchased the return ticket.
- 8° The grievor filed his expense claim on October 6, 1982 which included the purchase of the return ticket on Air France for the sum of \$648.88, and this claim was not allowed.

#### THE EVIDENCE

Norman Hodgson testified on behalf of the grievor. He has been since 1978 an air traffic controller at the Montreal Area Control Centre. In 1982, he took a familiarization flight to Rome with Alitalia. At the time of his return from Rome, he was advised that the airline could not honor his pass for the entire flight. He was flown to Milan where he was offered a ticket to New York City rather than to Mirabel. In New York City, he had to buy an Air Canada ticket to Mirabel. The expense account prepared by the witness was filed as exhibit G-1 and the sum of \$127.76 covering the Air Canada ticket was reimbursed by the employer.

Jean-Pierre Poitras testified on his behalf. He explained that Royal Air Maroc was flying out of Casablanca to Mirabel only once a week and that he felt that he had to buy a ticket from another airline to make sure that he would be back in Montreal before October 7, which was the date when he was to resume his duties as an air traffic controller. October 2 was a Saturday and it was not possible to contact the supervisor looking after the familiarization flights. He therefore relied on his own judgment.

Under cross-examination, Mr. Poitras admitted that with only a few exceptions, all airlines had stopped in the recent years to provide free transportation for familiarization flights.

Roger Buisson, a career development superintendent for the Quebec Area, testified on behalf of the employer. In 1982, only seven or eight airlines were participating to the employees' familiarization program. Air Canada was not one of the participating airlines. The authorization to participate in a familiarization flight has to be obtained by the employee at a number of levels and once this is obtained, the employer secures the necessary free of charge transportation pass from the airline. At times, the employer will pay hotels and meals but it never pays transportation expenses. This policy (exhibit G-3) has always been the same.

#### ARGUMENTS

The grievor's representative argued that the facts are clear. He stated that on October 2, 1982, the grievor had two options. He could either stay in Casablanca another week or so or buy a ticket to immediately return to Montreal. The cost of staying another week in Casablanca would have meant a substantial amount of money. It was not

Towers at a classification level higher than that of the employee's Unit, or, to an Area Control Centre.

(iii) U.S.A. High Density Control Towers

Controllers and Shift Supervisors at towers where the controllers are classified at the AI 3 level, and controllers and supervisors at St. Hubert, Victoria, Mirabel, Hamilton, and Quebec City Control Towers are authorized to visit a U.S.A. high density control tower every five years.

(c) Trainees at the Transport Canada Training Institute

As may be arranged in Department of Transport aircraft.

(d) Regional and TCTI Instructors

One (1) return flight every two (2) years involving not more than three (3) days' absence from his normal place of duty. These flights will be scheduled to include every five (5) years, a long range navigational flight or a visit to a U.S.A. high density unit.

(e) Employees located at Ottawa and Regional Headquarters

Effective January 1, 1978, one (1) long range navigational flight or a visit to a U.S.A. high density unit and one (1) return flight to a Canadian Area Control Centre or Tower every five (5) years, each involving not more than three (3) days' absence from their normal place of duty.

- (f) The Employer shall not be responsible for any failure to provide such flights wherever this occurs as a result of an airline declining to provide the necessary transportation.

As corrective action, the grievor requests that the employer be directed to reimburse him the sum of \$648.88 which he was called upon to pay to return to Montreal on October 2, 1982, when Royal Air Maroc was unable to provide free of charge the necessary transportation from Casablanca.

The following Statement of Facts was filed as exhibit G-2:

- 1° The Grievor, Mr. Jean-Pierre Poitras, is an air traffic controller, AI-4, employed as an operating IFR controller at the Montreal Area Control Center.
- 2° At all material times, Mr. Poitras's terms and conditions of employment were governed, inter alia by the Collective Agreement 402/82 between the Treasury Board and the Canadian Air Traffic Control Association which was signed on May 28th, 1982 and expired on December 31st, 1982.
- 3° The Grievor was appointed to his position T-ACQ-1383 on December 23, 1975 which is the date he checked out as an IFR controller at the Montreal Area Control Center.
- 4° Mr. Poitras was entitled to a Familiarization Flight as per Art. 8.03(a) of the CATCA/TB agreement and the employer scheduled him for this flight for September 28, 29 & 30, 1982.
- 5° The grievor received a pass from Royal Air Maroc for this Fam Flight, which

reasonable for the employer to refuse to reimburse the return fare which the grievor had the obligation to pay. Article 8.03(f) simply means that the employer will not be responsible when initiating a flight. There is nothing in article 8.03(f) to the effect that there is no responsibility once the flight has been initiated. The employer is being vindictive due to the fact that the grievor failed to phone from Casablanca for instructions.

According to counsel for the employer, the issue is not whether the employer's decision was unreasonable. The issue is whether there is in the collective agreement a clause to the effect that an air traffic controller has a right to be reimbursed. Article 8.03(f) clearly states that "the employer shall not be responsible for any failure to provide such (familiarization) flights wherever this occurs..." In the French version, it is said that "l'employeur ne sera aucunement tenu responsable de l'impossibilité d'assurer les vols..." The fact that one employee at one time was reimbursed cannot be considered as a practice. It might well be that there was an error or an oversight. The grievor would have been well advised to wait until the next Monday in order to have instructions from his supervisor.

#### REASONS FOR DECISION

I am of the opinion that this grievance should be dismissed.

Article 8.02 of the collective agreement defines familiarization flights as follows:

A flight during which an employee may be permitted to visit the cockpit of the aircraft during flight and following arrival at destination will visit the appropriate air traffic control units.

Article 8.03(f) which refers to familiarization flights reads:

The Employer shall not be responsible  
for any failure to provide such flights  
wherever this occurs as a result of an  
airline declining to provide the  
necessary transportation.

I cannot accept that the employer's lack of responsibility relates only to the "initiation" of the flight, as argued by the grievor's representative. It seems to me that article 8.03(f) clearly stipulates that the employer will not be responsible for any decision on the part of the participating airline in not providing a seat at any time during the familiarization flight. The article refers to "any failure... wherever this occurs" and I take it that this means any point between the point of departure and the point of destination and *vice versa*. The French version does not contradict my interpretation of the clause.

The fact that at another time, another air traffic controller may have been reimbursed a portion of a return transportation ticket is immaterial and is not sufficient to change the terms of the collective agreement.

As above stated, this grievance is dismissed.

J. Maurice Cantin, Q.C.,  
Vice-Chairman

OTTAWA, September 15, 1983