

PSSRB SUMMARY

166 - 2 - 17992

B. Whyte and Treasury Board (Transport Canada)

Before: R. Young

Appearances: L. Poirier, for the Grievor; R. Lafrenière, for the Employer

Decision Rendered: October 10, 1989

ANNUAL LEAVE

Leave - Scheduling - Staff shortages - Service requirements - Reasonable effort - presumption that on contracting for certain obligations and commitments in a collective agreement, management will take on enough staff to allow it to meet its commitments to labour concerning the covering of leave requests - grievor denied chosen leave by reason of the need to have staff work additional overtime because of staff shortages - employer entitled to plead "operational requirements" as a bar to being forced to have staff work overtime to accommodate leave requests only when normal staffing complements are met - chronic staff shortages render the payment of overtime premium an operational reality and necessity and a refusal to pay the premium to cover leave requests on the "defence" of operational requirements no longer valid - other employees available to replace grievor but not contacted on the pretext that employer had undertaken to minimize changes to other employees' days of rest and that to accede to grievor's request would have required amending the posted schedule - obligation on employer to make every reasonable effort entailing obligation to make "real" effort to accommodate employees' leave requests - part of this effort would include management's effort to carry normal complement of staff - failure by employer to discharge its obligation under collective agreement - as leave dates long past at date of adjudication hearing, proper remedy limited to declaration.

Grievance allowed.

Cases cited: Savage (166-2-9734); Milne (166-2-18376).