CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 621

Heard at Montreal, Tuesday, July 12th, 1977

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

DISPUTE:

The Brotherhood claims the Company violates Article 6 when it disqualified Reservation Clerk D.G. Strickland.

JOINT STATEMENT OF ISSUE:

D.G. Strickland has worked as Reservation Clerk on various dates since May 20, 1973.

On September 20, l976, the Company disqualified D.G. Strickland for not typing fast enough.

The Brotherhood claimed reinstatement for D.G. Strickland in to the Reservation Clerk's position and compensated for any loss of wages.

The Company has denied the request.

FOR THE EMPLOYEE:

(SGD.) E. E. THOMS
GENERAL CHAIRMAN

FOR THE COMPANY:

(Sgd.) S. T. COOKE
ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

A. D. Andrew – System Labour Relations Officer, Montreal
V. E. Gannon – System Labour Relations Officer, Montreal
R. J. Hogan – Supervisor, Passenger Services, Port Aux Basques
W. F. Wiseman – Labour Relations Officer, CNR, Moncton

And on behalf of the Brotherhood:

E. E. Thoms – General Chairman, Freshwater, P.B.
P. J. Lomond – Local Chairman, Port Aux Basques

AWARD OF THE ARBITRATOR

The grievor was awarded the position of Reservation Clerk, which she had held before on various occasions, pursuant to Area Bulletin 12/1 July 2, 1976. The qualifications set out in the bulletin were as follows:

> Neat in appearance, legible handwriting and knowledge of train, coastal, Roadcruiser and Gulf Services. Must be familiar with the operation of comptel machine, telex and reservac machines. Competent typist.

The Company having made the appointment, the question whether or not the grievor was entitled to it pursuant to Article 6.7 does not arise. The appointment was made, and the grievor was then entitled to the benefit of Article 6.12, which provides as follows:

> **6.12** An employee who is assigned by bulletin to a position shall be given reasonable time in which to qualify, up to 30 days (the length of time depending on the character of the work), and failing will be returned to his former position without loss of seniority.

In the instant case, after the grievor had been some seven days on the job, the Company concluded that she did not have the necessary typing ability. She was therefore disqualified from the position. It seems that, during the periods when she had occupied this position in the past, the grievor had not been required to do any very significant amount of typing. The nature of the work load had changed somewhat in that regard and more typing was required. The Company's requirements in this regard were not unreasonably demanding.

While Article 6.12 refers to a thirty-day period that is a maximum, and an employee is only entitled to a "reasonable time" in which to qualify. The question of qualification is not conclusively resolved by an appointment pursuant to a bulletin, otherwise Article 6.12 would make no sense. The issue here, then, is whether the seven days or so which were afforded the grievor constituted a "reasonable time" in which she might qualify. It is only in respect of typing that any question arises.

While the grievor had taken a typing course which she successfully completed in June, 1972, it seems that she did not make use of those skills in the period which followed. When, following her appointment to the job in question, it became apparent that her typing was not adequate, she was given a test, in which she attained a speed of eight words per minute. I think it can be said that this was an obviously unsatisfactory rate.

It is argued that the test was unfair because it was given in ordinary workplace conditions, and not in conditions of calm and quiet. This was not, however, an academic test in which distractions could be considered unfair, it was an operational test relating to work to be performed. It was the grievor's ability to perform satisfactorily in ordinary working conditions which was in question. I do not consider then, that there was anything improper about the test.

Since the grievor had had some seven days on the job, and since her typing speed was then so very low, I think it must be concluded that she had not qualified for the job within a reasonable time. There was therefore no violation of Article 6, and the grievance must be dismissed.

(sgd.) J. F. W. WEATHERILL
ARBITRATOR