

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1239

Heard at Montreal, Tuesday, May 8, 1984

Concerning

VIA RAIL CANADA INC.

and

**CANADIAN BROTHERHOOD OF RAILWAY,
TRANSPORT AND GENERAL WORKERS**

DISPUTE:

Bulletining and filling of positions.

JOINT STATEMENT OF ISSUE:

Effective October 30, 1983, at the Fall/Winter change of time schedule, procedures were introduced in VIA West requiring employees to signify their choice of departure dates on bid forms.

The Brotherhood was informed prior to implementation.

The Brotherhood contended the Corporation violated articles 12 and 1.1 (c) of Agreement 2, and requested cancellation of the procedures.

The Corporation maintains that the collective agreement was not violated, and rejected the Brotherhood's request.

FOR THE BROTHERHOOD:

(SGD.) TOM MCGRATH
NATIONAL VICE-PRESIDENT

FOR THE CORPORATION:

(SGD.) A. GAGNÉ
DIRECTOR, LABOUR RELATIONS.

There appeared on behalf of the Corporation:

A. Leger	– Manager, Labour Relations, Montreal
W. Fitzgerald	– Manager, Services and Sales, On-Board Services, Montreal
A. Parent	– Analyst, Labour Relations, Montreal

And on behalf of the Brotherhood:

A. Cerilli	– Representative, Winnipeg.
------------	-----------------------------

AWARD OF THE ARBITRATOR

Pursuant to the Company's obligations under article 12.1 and 12.6 of the collective agreement the Company had awarded employees their preferred runs on the basis of seniority and, once awarded, allowed those employees to select their schedules for their runs, again, on the basis of seniority.

In October, 1983, the Company, rather than engage in two separate and distinct procedures for accomplishing the same task, required its employees when making their bids for their preferred runs to select their preferred schedules at the same time.

The Trade Union alleges that the Company has abridged the employees' seniority rights under article 12.1 and 12.6 in making this procedural change. The Company acknowledges that it is obliged to adhere to an employee's seniority both in granting his bid for an assignment and in accommodating his wishes for a preferred cycle.

In no manner has the Trade Union demonstrated how the employees' privileges with respect to the exercise of their seniority in the two instances has been violated. Clearly, once the most senior employee's request for a particular run is awarded the Company must also accommodate his scheduling preferences. Indeed, if that does not transpire (i.e., a less senior employee is given the preferred cycle) then the aggrieved employee's protection lies in his recourse to the grievance procedure.

At the heart of the Trade Union's complaint is the concern that an employee has been deprived of advance notice of his colleagues assignments prior to his choosing a preferred scheduling cycle. As a result his decision in making his selection of a schedule is less informed than was previously the case.

As demonstrated at the hearing the more senior employee's rights to make his schedule selections is protected. With proper planning he may still accommodate his private needs, to the extent his seniority will permit, with his obligations to the Company. I am not satisfied that advance information with respect to an employee's colleagues' preferences is a relevant consideration that the Company need weigh in discharging its obligations under articles 12.1 and 12.6 of the collective agreement.

Accordingly the grievance is denied.

(signed) DAVID H. KATES
ARBITRATOR