

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1410

Heard at Montreal, Tuesday, October 8, 1985

Concerning

### ONTARIO NORTHLAND RAILWAY

and

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

### EX PARTE

#### **DISPUTE:**

The abolishment of two Communication Maintainers with headquarters, New Liskeard formally held by Messrs. Peckover and Gaudreault and one Installers position with headquarters New Liskeard formally held by Mr. Banning without the required three month notification as required by the Job Security Agreement.

#### **BROTHERHOOD'S STATEMENT OF ISSUE:**

February 27, 1985 a notice was served on the Brotherhood by the Ontario Northland Railway stating that effective March 8, 1985 two positions of Communication Maintainers, with headquarters New Liskeard will be abolished. The Installers position was abolished effective June 1, 1985.

The Brotherhood requested cancellation of notice and for the Company to act pursuant to article 8 of the Job Security Agreement.

The Company denied request.

#### **FOR THE BROTHERHOOD:**

**(SGD.) P. A. GOSSELIN**

**GENERAL CHAIRMAN,**

There appeared on behalf of the Company:

- A. Rotondo – Manager Labour Relations, North Bay
- E. C. Pearce – Director Telecommunications, North Bay

And on behalf of the Brotherhood:

- P. A. Gosselin – General Chairman, New Liskeard
- J. Manchip – General Chairman, Montreal

## **AWARD OF THE ARBITRATOR**

The clear issue in this case is whether the Company's decision to abolish two Communication Maintainer and one Installer positions were prompted by a technological, operational and organizational change as intended by article 8.1 of the Job Security Agreement.

The Company claimed it came within the scope of the exemption contained in article 8.7 whereby the terms "Operational and Organizational" chance shall not include changes brought about by a fluctuation of business. And, in this regard, the Company adduced direct evidence demonstrating why, because of a reduction in orders, its manpower needs had drastically changed.

The Trade Union's principal argument as to why article 8.1 ought to apply is based on the "permanency" that was attached to the abolition of the three positions. Had the grievors' redundancies been caused by a temporary suspension of their jobs so that they would be subject to recall, then, different considerations would apply. In short, given the permanency of the redundancies, the Trade Union asked me to draw the inference that the changes that occurred were for technological, operational or organizational reasons.

Of course, that principle, if it were adopted, would in effect nullify the exempting provision contained under article 8.7. I do not doubt that a certain degree of technological change, as described in the Trade Union's submissions, contributed over the years to the change or transformation of the Company's manpower requirements. Nevertheless, the direct and immediate reason that precipitated the abolition of the three positions were business considerations. And a business consideration that is exempted from article 8.1 by virtue of the provision contained in article 8.7 will not operate to the grievors' benefit merely because the abolition of their positions may be of a permanent nature.

For all the foregoing reasons the grievance is denied.

**(signed) DAVID H. KATES**  
**ARBITRATOR**