

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1668

Heard at Montreal Tuesday, July 14, 1987

Concerning

### CNCP TELECOMMUNICATIONS

and

### BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS

#### JOINT STATEMENT OF DISPUTE:

1. The Employer contracted with Canadian National Railway Company (CNR) for the installation, splicing and maintenance of a fibre optic cable owned by the Employer and running from London, Ontario to Windsor, Ontario. This cable is to be installed by CNR on CNR's right of way during the 1987 construction season.
2. The Union grieved on February 26, 1987 concerning this work. The Union contends that the installation, splicing and maintenance of the London-Windsor fibre optics cable should be done by its members under its collective agreement ('the Agreement') with the Employer. The Union further contends that the Employer has violated Appendix 'E' to the Agreement by contracting out the installation, splicing and maintenance of this cable.
3. The Employer contends that Appendix 'E' to the Agreement requires the Union to demonstrate that an employee has been unable to hold work as a result of its contracting with CNR and the employer puts the Union to the strict proof thereof. In any event, the Employer contends that it has not contravened the provisions of Appendix 'E' to the Agreement.

#### FOR THE UNION:

**(SGD.) M.B. KEALEY**  
GENERAL CHAIRMAN

#### FOR THE EMPLOYER:

**(SGD.) J. SZYMANSKI**  
MANAGER, LABOUR RELATIONS

There appeared on behalf of the Company:

K. Billings	– Counsel, Toronto
B. Ballantyne	– Director, Human Resources, Toronto
F. Tutt	– Director, Special Projects, Toronto
A. Montgomery	– Engineer, Toronto
T. Ferens	– Manager Labour Relations, Montreal

And on behalf of the Brotherhood:

M. Rotman	– Counsel, Toronto
M.B. Kealey	– General Chairman, Kingston
S. Genest	– Local Chairman, Montreal

#### AWARD OF THE ARBITRATOR

For the reasons expressed in **CROA 1667**, the material facts of which are indistinguishable, this grievance is dismissed.

**(signed) MICHEL G. PICHER**  
ARBITRATOR