CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1918

Heard at Montreal, Wednesday 10 May 1989

Concerning

CANADIAN PARCEL DELIVERY
(CP EXPRESS AND TRANSPORT)

And

TRANSPORTATION COMMUNICATIONS UNION

EX PARTE

DISPUTE:

Abolishing full-time dockmen positions and reducing the rates of the employees who held these positions to that of part-time dockmen's rate.

UNION'S STATEMENT OF ISSUE:

Due to a reduction of business, the Company reduced the rates of many full-time dockmen positions to that of part-time dockmen's rate. The Union grieved the reducing of the rate of the position because these employees performed the same duties as before, on reduced hours. The Union further substantiates their claim as per Appendix "C", Memorandum of Understanding No. 12, signed at Toronto, June 14, 1985, which states:

> "It is not the intention of this Memorandum to replace full-time bulletined Dockmen positions with part-time Dockmen positions."

The Union is claiming, for all employees that were reduced during those periods, the rate they were receiving prior to the reduction of hours.

The Company denied the Union's request.

FOR THE UNION:

(SGD) J. J. BOYCE
GENERAL CHAIRMAN, SYSTEM BOARD OF ADJUSTMENT 517

There appeared on behalf of the Company:

D. D. Francis	– Counsel, Toronto
F. McMullen	– Director, Human Resources, Toronto

And on behalf of the Union:

H. F. Caley	– Counsel, Toronto
J. J. Boyce	– General Chairman, Toronto
M. Gauthier	– Vice-General Chairman, Montreal

AWARD OF THE ARBITRATOR

The Arbitrator is satisfied that the language of Appendix C to the Collective Agreement cannot be construed as an express prohibition of the Company's right to reduce the complement of full-time positions or increase the complement of part-time positions, where it does so for *bona fide* business reasons not otherwise inconsistent with the Collective Agreement. The material establishes, without dispute, that it has been the Company's practice over a substantial period of time to convert certain full-time employees to part-time status when that adjustment has been justified by seasonal fluctuations in business. The employment record of Dockman J. Martin, employed at Montreal, placed in evidence by way of example, reflects precisely that type of work history.

On the whole I am compelled to conclude that there is nothing in the established practice of the parties or the language of the Collective Agreement to circumscribe the Company's right to determine the number of full-time and part-time positions appropriate at any given time, particularly when such determination is made upon the basis of changes in the volume of business. Temporary adjustments of that kind do not constitute a departure from the established expectation of the parties or the terms of the Collective Agreement. This is not a case where the Company has sought, without any valid business justification, to merely reduce the wages of employees from the full-time rate to the part-time rate without any real change in their working circumstances.

For the foregoing reasons the grievance must be dismissed.

May 12, 1989

(Sgd.) MICHEL G. PICHER
ARBITRATOR