

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 2056

Heard at Montreal, Wednesday, 10 October 1990

Concerning

### CANADIAN NATIONAL RAILWAY COMPANY

And

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

#### **DISPUTE:**

An alleged violation of Article 8.3 of the Employment Security and Income Maintenance Plan (The Plan) concerning the abolishment of three positions in Kamloops.

#### **JOINT STATEMENT OF ISSUE:**

On October 3, 1988, an Article 8.1 notice was sent to the Brotherhood advising of the abolishment of three Train Movement Clerk positions to be effective on January 15, 1989. The reason given for the abolishment of the positions was the introduction of the Railway Electronic Identification Systems (R.E.I.S.) in the Transportation Department at Kamloops.

The Brotherhood contends that since R.E.I.S. was not introduced on January 15, 1989, the Company violated Article 8.3 of The Plan and the Article 8.1 notice should be rescinded and all employees affected by the notice should be restored to their previous positions.

The Company disagrees.

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

**(SGD.) T. MCGRATH**  
NATIONAL VICE-PRESIDENT

#### **FOR THE COMPANY:**

**(SGD.) W. W. WILSON**  
for: ASSISTANT VICE-PRESIDENT, LABOUR RELATIONS

There appeared on behalf of the Company:

M. M. Boyle – Manager, Labour Relations, Montreal  
K. G. MacDonald – Manager, Labour Relations, Edmonton  
B. R. O'Neill – System Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

P. J. Askin – Representative, Vancouver  
H. L. Critchley – Representative, Vancouver

**AWARD OF THE ARBITRATOR**

The Arbitrator appreciates the concerns which motivate the grievance. However, on the facts established in evidence it must be found that the grievance is without merit, as the Brotherhood's conduct justifies an application of the principles of waiver and estoppel. In the result, no violation of the Collective Agreement or of the terms of the Employment Security and Income Maintenance Plan is established, and the grievance must be dismissed.

12 October 1990

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