

**CANADIAN RAILWAY OFFICE OF ARBITRATION**  
**SUPPLEMENTARY AWARD TO**  
**CASE NO. 2092**

Heard at Montreal, Thursday, 11 July 1991  
concerning

**VIA RAIL CANADA INC.**

and

**BROTHERHOOD OF LOCOMOTIVE ENGINEERS**

There appeared on behalf of the Corporation:

P. J. Thivierge – Senior Negotiator & Advisor, Labour Relations, Montreal

And on behalf of the Brotherhood:

W. Wright – Acting General Chairman, Kamloops

**SUPPLEMENTARY AWARD OF THE ARBITRATOR**

Having heard the submissions of the parties, the Arbitrator is satisfied that the payment made by the Corporation to the grievor is in keeping with the collective agreement, and with the original Award of the Arbitrator. It is clear that the intention of any remedial award of reinstatement with compensation and benefits is to place an employee in the same position which he or she would have enjoyed but for his or her dismissal. In the instant case it is common ground that the grievor could not have proceeded to take his retirement without first exhausting his pre-retirement vacation. In the circumstances he cannot use the fact of his suspension to gain an economic windfall which he would not have had if he had not been improperly terminated. In the circumstances the amount paid by the Corporation to Mr. Beckett is in full compliance with the requirements of the collective agreement and the Award of the Arbitrator.

I continue to retain jurisdiction in the event of any further misunderstanding.

July 13, 1991

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