

CANADIAN RAILWAY OFFICE OF ARBITRATION

SUPPLEMENTARY AWARD TO CASE NO. 2185

Heard in Calgary, Thursday, 16 June 1994

concerning

CANADIAN PACIFIC LIMITED

and

**CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS
[UNITED TRANSPORTATION UNION]**

DISPUTE:

With reference to the compensation awarded Conductor C.A. Carter for the period of time he was dismissed from Company service.

The Canadian Council of Railway Operating Unions and the Company are unable to resolve our differences as to the compensation to be paid in implementing your award.

FOR THE COUNCIL:

(SGD.) L. O. SCHILLACI
GENERAL CHAIRPERSON - UTU

FOR THE COMPANY:

(SGD.) M. E. KEIRAN
FOR: GENERAL MANAGER, OPERATIONS & MAINTENANCE, HHC

There appeared on behalf of the Company:

- M. E. Keiran – Manager, Labour Relations, Vancouver
- R. N. Hunt – Labour Relations Officer, Vancouver
- D. Zatko – Road Foreman of Engines, Calgary

And on behalf of the Union:

- L. O. Schillaci – General Chairperson, Calgary
- B. L. McLafferty – Vice-General Chairperson, Moose Jaw
- C. A. Carter – Grievor

SUPPLEMENTARY AWARD OF THE ARBITRATOR

The Arbitrator is not impressed with the case advanced on behalf of Mr. Carter, as it relates to his efforts to secure employment, at least as of the time it became clear that the grievance procedure would not secure his reinstatement. The fact that the grievor did not apply for unemployment insurance benefits, which would have involved a related obligation on his part actively seek employment with the assistance of Employment and Immigration Canada, and the grievor's obvious reluctance to consider taking lower paying jobs during the two year period he was held out of service, cause the Arbitrator to be satisfied that he did fail to mitigate his financial losses to a substantial degree. The Arbitrator therefore directs that the Company compensate the grievor for the wages and benefits which would normally have been attributable to service which he would have performed over a four month period of time. Reference shall be had to average earnings made by the grievor himself during the two year period immediately prior to his discharge as a basis to determine the miles or hours which he would have otherwise worked. The Arbitrator continues to retain jurisdiction in the event of any further disagreement between the parties.

June 21, 1994

(sgd.) MICHEL G. PICHER
ARBITRATOR