

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2291

Heard at Montreal, Thursday, 15 October 1992

concerning

VIA RAIL CANADA INC.

and

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

DISPUTE:

Claim for Employment Security benefits on behalf of Mr. J. Armstread.

JOINT STATEMENT OF ISSUE:

The grievor bid and was awarded a permanent CSA/Janitor position in Thompson, Manitoba, on Regional Bulletin #189 dated October 31, 1989.

He elected to occupy subsequent temporary assignments in Calgary, as permissible under Article 12.13 of Collective Agreement No. 1, prior to taking up his permanent position in Thompson.

In the Special December 1989 bulletining exercise in preparation for the January 15, 1990 service reductions, the grievor was initially awarded Position No. 80 in Vancouver. In the second phase of the bulletining process, the grievor was displaced from Position No. 80 by a senior employee, and consequently did not obtain a permanent position in VIA West.

In that the grievor's seniority was insufficient to allow him to obtain a permanent position in VIA West for which he was qualified, he was then assigned to a vacant part-time position at his home terminal in Thompson, which he refused.

The Brotherhood contends that by virtue of having last worked on a position in Calgary, that the grievor's home terminal should be Calgary and that he should be on Employment Security at that location.

The Corporation maintains that by virtue of having obtained a permanent position in Thompson prior to January 15, 1990 service cuts, the grievor had established a new "home location", at which location he was obligated to accept a vacant part-time position or lose his Employment Security.

FOR THE BROTHERHOOD:

(SGD.) J. D. HUNTER
NATIONAL VICE-PRESIDENT

FOR THE CORPORATION:

(SGD.) C. C. MUGGERIDGE
DEPARTMENT DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Corporation:

C. Pollock	– Senior Officer, Labour Relations Montreal
M. St-Jules	– Senior Negotiator & Advisor, Labour Relations, Montreal
D. S. Fisher	– Senior Officer, Labour Relations, Montreal
J. R. Kish	– Senior Advisor, Labour Relations, Montreal

And on behalf of the Brotherhood:

T. N. Stol – National Vice-President, Ottawa
L. A. Dowhanik – Local Officer, Montreal
A. Sawyer – Grievor

AWARD OF THE ARBITRATOR

The Arbitrator cannot sustain the position advanced by the Brotherhood. As the material reflects, the grievor's very entitlement to participate in the special bulletining exercise in December of 1989 and January of 1990, and his entitlement to employment security, were predicated on his holding the position at Thompson, Manitoba. He acquired that position in October of 1989, and while he did not physically assume its duties and responsibilities, must be taken to have occupied it for the purposes of employment security.

For these reasons the grievance must be dismissed.

October 16, 1992

(Sgd.) MICHEL G. PICHER
ARBITRATOR