

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 2432

Heard at Montreal, Thursday, 16 December 1993

concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

and

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

**EX PARTE**

**DISPUTE:**

**BROTHERHOOD:**

Whether Employment Security employees from other unions may be utilized to fill vacancies in CBRT&GW positions prior to recalling laid off CBRT&GW employees; and whether Employment Security employees from other unions are governed by the provisions of the 5.1 agreement while filling vacancies within the CBRT&GW jurisdiction.

**COMPANY:**

Claim for loss of wages on behalf of employees represented by the CBRT&GW who were laid off as a result of the extended shutdown of the Main Shops at Transcona (Winnipeg) during the summer of 1992.

**BROTHERHOOD'S STATEMENT OF ISSUE:**

It is the Brotherhood's contention that the Company is in violation of articles 2.1, 3.1, 3.2, 3.4, 3.5, 3.7, 3.9, 3.10, 11.3, 12.9, 13.11, 13.13 and other related articles of agreement 5.1; and article 7.4 of the Employment Security and Income Maintenance Agreement, as well as section 70(1) of the Canada Labour Code in allowing employment security employees from other wage agreements to fill positions covered by agreement 5.1. In so doing, the Company has jeopardized the integrity of the bargaining unit as well as the job security of the existing members. The Brotherhood seeks full redress of wages and benefits for its laid off employees as well as reimbursement of union dues.

The Company denies any violation of the Collective Agreement.

**COMPANY'S STATEMENT OF ISSUE:**

During the period of June to September 1992, a number of temporary vacancies remained unfilled at the Winnipeg Terminal after they were advertised in accordance with the relevant provisions of the collective agreement.

The Brotherhood alleges a violation of articles 12.9, 13.11 and 13.13 of the collective agreement, claiming the Company was required to recall qualified employees who were on layoff status when such vacancies remained unfilled after they were advertised. The Brotherhood also claims a violation of article 3 of the collective agreement when the Company failed to remit union dues to the Brotherhood on behalf of those employees on Employment Security status who performed some of the work during that summer.

The Company rejected the claims and disagrees with the Brotherhood's contentions that those employees laid off as a result of the extended shutdown of the Main Shops at Transcona had any entitlement to the unfilled vacancies. The Company further contends that it was only required to remit union dues to the organizations representing those employees on Employment Security status who actually performed the work and not to the Brotherhood.

**FOR THE BROTHERHOOD:**

**(SGD.) T. N. STOL**  
**National Vice-president**

**FOR THE COMPANY:**

**(SGD.) M. M. BOYLE**  
**for: Assistant Vice-president, Labour Relations**

There appeared on behalf of the Company:

R. Paquette – Manager, Labour Relations, Montreal  
S. A. MacDougald – Manager, Labour Relations, Montreal

On behalf of the Brotherhood:

D. Olshewski – Regional Vice-President, Winnipeg

And on behalf of the Canadian Council of Railway Shopcraft Unions:

A. Rosner – Executive Secretary, Montreal

*The grievance was withdrawn, without prejudice, by the Brotherhood at the hearing.*