

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 2515

Heard in Montreal, Thursday, 14 July 1994

concerning

**CANADIAN PACIFIC EXPRESS & TRANSPORT**

and

**TRANSPORTATION COMMUNICATIONS UNION**

**EX PARTE**

### **DISPUTE:**

A matter involving a claim that the Company has violated the current collective agreement provisions, and CROA Case No. 1525, when they recently cancelled Dispatch clerk positions and assigned this bargaining unit work to management employees.

### **EX PARTE STATEMENT OF ISSUE:**

The Union, during the grievance process, raised the cogent argument that its position should logically succeed given the current language of the collective agreement.

The Union contends that this matter was before the arbitrator on Wednesday, 11 June, 1986 under CROA Case No. 1525, and asserts that the written award carried the stipulation that the arbitrator "... shall remain seized".

The Union seeks a declaration from the arbitrator imposing the terms of the original award because of the Company's violation and failure to adhere to the conditions outlined in this award (Case No. 1525).

The Company to date has declined the Union's request for the posting of these Dispatch clerk positions, and further, that they properly reassign the Dispatch work to the bargaining unit employees.

### **FOR THE UNION:**

**(SGD.) M. W. FLYNN**

**FOR: EXECUTIVE VICE-PRESIDENT**

There appeared on behalf of the Company:

M. D. Failes	– Counsel, Toronto
B. F. Weinert	– Director, Labour Relations, Toronto
J. Nobile	– Manager, P&D, Vancouver

And on behalf of the Union:

D. Wray	– Counsel, Toronto
D. J. Bujold	– National Secretary/Treasurer, Ottawa
M. Thibodeau	– Witness

**AWARD OF THE ARBITRATOR**

Based on the material presented, the Arbitrator cannot find, on the balance of probabilities, that there has been any assignment of bargaining unit work to non-bargaining unit personnel at the Company's terminal in Vancouver. The evidence before me confirms that there was a substantial reduction in the volume of traffic which gave rise to a major reduction in staff, including a reduction in the ranks of employees in the dispatch function. There is no evidence to establish, however, that any work previously performed by a bargaining unit member was transferred to management personnel. In the result the Arbitrator can find nothing in the actions taken by the Company which are inconsistent with the decision of this Office in **CROA 1525** or contrary to the provisions of the collective agreement. For these reasons the grievance must be dismissed.

15 July 1994

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