

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 3014

Heard in Montreal, Wednesday, 9 December 1998

concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

and

**BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES**

**EX PARTE**

### **DISPUTE:**

Employees' obligation to be on call 24 hours per day while on employment security status.

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

During a meeting held on June 25, 1998, the Brotherhood and the Company agreed to proceed to arbitration to settle their disagreement over the above noted matter. The Company's position is that ES status employees are required to report to work at any time and on short notice. The Brotherhood disagrees with this position.

The Union contends that: (1) Es status employees, like all employees, are governed by the terms and condition of the collective agreement and by the terms and conditions of the *Canada Labour Code*; (2) The Company's position violates all of the provisions of Agreement 10.1 (and supplementals thereto) dealing with hours of service (article 2), hours of rest (article 3), work week (article 4), rest days (article 5), relief assignments (article 6), assignment of overtime (article 8), bulletining and filling of positions (article 15; article 3 in the supplementals), recall to service (article 17; article 4 in the supplementals), and unjustly deals with the employees involved in violation of article 18.6. The Company's position is also in violation of article 7 of the ESIMA.

The Union requests that: It be declared that the Company's position is incorrect and that ES status employees are subject to all of the same terms and conditions of employment as any other bargaining unit employee. That it be ordered that any employee adversely affected by the Company's position be made whole with full compensation for all losses incurred as a result thereof.

The Company denies the Union's contentions and declines the Union's request.

### **FOR THE BROTHERHOOD:**

**(SGD.) R. A. BOWDEN**  
**SYSTEM FEDERATION GENERAL CHAIRMAN**

There appeared on behalf of the Company:

D. A. Watson                                     – Labour Relations Consultant, Montreal  
N. Dionne   – Manager, Labour Relations, Montreal

And on behalf of the Brotherhood:

D. W. Brown                                   – Sr. Counsel, Ottawa  
P. Davidson                                   – Counsel, Ottawa  
R. A. Bowden                                 – System Federation General Chairman, Ottawa  
R. A. Phillips                                 – Federation General Chairman, Ottawa

At the request of the parties, the Arbitrator adjourned the hearing and this matter was resolved between the parties.

**SUMMARY– CROA 3014**

Adjourned and resolved between the parties – NO DECISION