

CANADIAN RAILWAY OFFICE OF ARBITRATION

SUPPLEMENTARY AWARD TO CASE NO. 3040

Heard in Montreal, Thursday, 10 June 1999

concerning

ST. LAWRENCE & HUDSON RAILWAY COMPANY

and

**CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS
(UNITED TRANSPORTATION UNION)**

EX PARTE

DISPUTE:

The failure of the parties to agree upon the remedy entitlement of Mr. J. Noël de Tilly awarded in *CROA 3040*.

EX PARTE STATEMENT OF ISSUE:

Mr. Noël de Tilly was dismissed from Company service on August 8, 1997. The parties agreed that Mr. Noël de Tilly would be reinstated on the same terms as were ordered in *CROA 3022* and that the remedy entitlement issue would be submitted to the arbitrator.

The Arbitrator heard the issue of remedy on March 11, 1999, and issued his award on March 15, 1999.

The parties have agreed that Mr. Noël de Tilly is entitled to the terms ordered in *CROA 3022* and *3040* and that only the remedy entitlement issue would be submitted to the arbitrator.

FOR THE COUNCIL:

(SGD.) D. A. WARREN

GENERAL CHAIRMAN

There appeared on behalf of the Company:

G. Chehowy	– Manager, Labour Relations, Toronto
G. D. Wilson	– Counsel, Calgary
C. Westcott	– Field Operations Analyst, Toronto

And on behalf of the Council:

P. Sadik	– Counsel, Toronto
D. A. Warren	– General Chairperson, Toronto
J. Noël de Tilly	– Grievor

SUPPLEMENTARY AWARD OF THE ARBITRATOR

Further to the representations of the parties in respect of their inability to agree upon a number of issues relating to the calculation of certain figures prior to the grievor making his option as between continuing to work for the Company or bridging to retirement under the terms of the Trois Rivières closure the Arbitrator orders and directs as follows:

1. The grievor shall be compensated for wages and benefits lost to June 1, 1999. He shall further have one week from the date of this award to make his election in relation to his rights under the Trois Rivières Closure Agreement.
2. In the calculation of the monies to be reimbursed to the Company by the grievor the amount proposed by the Company, \$36,736.93, shall be reduced by the amount of \$4,093.60, for a total reimbursement payment of \$32,643.33.
3. The Arbitrator rules that the grievor's bridging wage figure is to be calculated on the basis advanced by the Company, which is to say the wages actually earned by the grievor during the pay periods in question. I am satisfied that it is appropriate for the grievor to be compensated in that fashion, as are all other employees under the Trois Rivières Closure Agreement. There is no basis in principle upon which to increase the estimated earnings of the grievor on speculation that he might or would have worked different hours if his knowledge had been then what it is now. In the result, the figure to be utilized is the actual earnings figure of \$1,266.29 as his weekly earnings.

June 11, 1999

(signed) MICHEL G. PICHER
ARBITRATOR

SUMMARY- CROA 3040 SUPP

Conductor Noël de Tilly - compensation upon reinstatement – calculation for bridging made on actual earnings prior to discharge – arbitrator discusses “employee’s claim he would have earned more if he had known....”

KEYWORDS – CROA 3040 SUPP

Claim bridging maintenance of earnings compensation reinstatement

CPR – UTU June 10 1999 – award dated June 11 1999