

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 3098

Heard in Montreal, Thursday, 10 February 2000

concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

EX PARTE

DISPUTE:

Interpretation of article 4.1(d) of Appendix E of the Job Security Agreement.

EX PARTE STATEMENT OF ISSUE:

The Brotherhood and the Company dispute the interpretation of the above mentioned provision of the JSA. The Company's position is that an employee who (1) has his permanent position abolished as a result of an Article 8 change and (2) then moves immediately into a temporary position should not be counted as part of the group of 220 ES eligible employees referred to in Article 4.1(d). The Brotherhood disagrees.

The Brotherhood contends that: (1) Employees in the position of the example cited above must be counted in the group of 220 ES eligible employees; (2) The Company, by letter dated October 12, 1995, if formally on record agreeing with the Brotherhood's position; (3.) The Company's position is in violation of article 4.1(d) of Appendix E of the JSA.

The Union requests that the Brotherhood's interpretation of article 4.1(d) is correct. Furthermore, the Brotherhood requests that it be ordered that the Employment Security Fund be made whole for any and all losses, including interest, incurred as a result of this matter.

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

FOR THE BROTHERHOOD:

(SGD.) J. J. KRUK

SYSTEM FEDERATION GENERAL CHAIRMAN

There appeared on behalf of the Company [among others]:

R. A. Andrews – Manager, Labour Relations, Calgary
S. J. Samozinski – Director, Labour Relations, Calgary

And on behalf of the Brotherhood:

P. P. Davidson – Counsel, Ottawa
J. J. Kruk – System Federation General Chairman, Ottawa
K. Deptuck – Vice-President, Ottawa

At the request of the parties, the hearing was adjourned sine dies.