

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## SUPPLEMENTARY AWARD TO

### CASE NO. 3262

Conference Call held on Thursday, November 14, 2002

concerning

**VIA RAIL CANADA INC.**

and

**NATIONAL AUTOMOBILE, AEROSPACE, TRANSPORTATION AND  
GENERAL WORKERS UNION OF CANADA (CAW-CANADA)**

**EX PARTE**

**DISPUTE:**

Failure to meet the condition of reinstatement set out under award CROA 3262.

**CORPORATION'S STATEMENT OF ISSUE:**

Award CROA 3262 reinstated Ms. D. Acre-Smith to employment conditional on undergoing a full medical exam, both physical and psychological, to determine her fitness to return to work or entitlement to sick leave. The Corporation made every effort to arrange for the independent medicals but she has failed or refused to attend, contrary to the award.

**FOR THE CORPORATION:**

**(SGD.) L. LAPLANTE**

**FOR: DIRECTOR, LABOUR RELATIONS**

There appeared on behalf of the Corporation:

E. J. Houlihan – Senior Manager, Labour Relations, Montreal

And on behalf of the Union:

D. Olszewski – National Representative, Winnipeg

**SUPPLEMENTARY AWARD OF THE ARBITRATOR**

By a decision dated June 14, 2002, this Office directed the reinstatement of the grievor subject to her undergoing a full medical examination, both physical and psychological, to determine her fitness to return to work or her entitlement to sick leave. It is not disputed that Ms. Acre-Smith has failed to communicate with either the Corporation or her trade union to follow up on the direction of the Arbitrator to the present date. In the circumstances the Arbitrator determines that if the grievor should fail to communicate with the Corporation and the Union, and should fail to confirm medical appointments pursuant to the original decision on or before December 31,

2002, she shall be deemed to have abandoned her employment and the Corporation shall be at liberty to close her employment file.

For the purposes of clarity the obligation upon the grievor is to make an appointment for medical assessment before the 31st of December, albeit the actual assessment itself might be scheduled for a later date.

The Arbitrator continues to retain jurisdiction in this matter.

November 14, 2002

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