

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 3289

Heard in Montreal, Thursday, 12 September 2002

concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

and

**UNITED TRANSPORTATION UNION**

**EX PARTE**

**DISPUTE:**

Suitable accommodation of Conductor D.C. Field pursuant to Canadian Railway Office of Arbitration award 3140.

**EX PARTE STATEMENT OF ISSUE:**

Mr. Field, as a result of CROA 3140, was placed on a utility person assignment in Edmonton. After working that position for some time, and having received no complaints or concerns regarding his work performance, the Company arbitrarily removed him from that assignment and placed him on a hostler job.

Mr. Field worked as a hostler, again with no complaints about his work performance. He was however, removed from this position and required to take training outside the bargaining unit as a crew dispatcher. Mr. Field failed to qualify as a crew dispatcher and is, once again without employment.

The Union contends that the Company has failed to adequately accommodate Dale Field, or to fully comply with the terms of CROA 3140.

The Company disagrees.

**FOR THE UNION:**

**(SGD.) R. HACKL**

**FOR: GENERAL CHAIRPERSON**

There appeared on behalf of the Company:

D. N. Kruk	– Counsel, Edmonton
S. M. Blackmore	– Manager, Human Resources, Edmonton
L. Rea	– Transportation Supervisor,
L. Gallegos	– Operations Manager,

And on behalf of the Union:

H. F. Caley	– Counsel, Toronto
R. A. Hackl	– Vice-General Chairperson, Edmonton
B. R. Boechler	– Vice-General Chairperson, Edmonton
D. C. Field	– Grievor

At the request of the parties, the Arbitrator adjourned the hearing *sine dies*.

**MEMO TO FILE**

**AGREED PROCESS**

1. Adjourn *sine die*
2. The Union to advise the Company within seven (7) days of a list of assignments which grievor believes he can perform.
3. The Company will provide the Union with any job description or physical demand analysis documents relating to the identified assignments.
4. The documents in (3) will be provided to Medysis.
5. The grievor will be fully functionally evaluated for his physical fitness to perform the identified assignments by Medysis (including doctor, therapist and technicians). The itemized report of Medysis to be provided to both parties.
6. If grievor is cleared for an assignment he will be assigned subject to seniority.
7. If the grievor is not cleared as fit for any of the identified assignments he will obtain a separate opinion from an occupational medicine physician respecting his fitness to perform any of the identified assignments. The itemized result of the doctor's report to be provided to both parties.
8. If as a result of step (7) the grievor obtains a favourable report from the independent physician the Company will consider that opinion.
9. If the parties remain disagreed after step (8) the matter may be brought back to arbitration or resolved by such other process as the parties may agree on.
10. Depending on the result of the above steps, the parties may bring the matter back to the Arbitrator respecting the issue of compensation

September 12, 2002