

**CANADIAN RAILWAY OFFICE OF ARBITRATION  
& DISPUTE RESOLUTION**

**CASE NO. 3562**

Heard in Montreal, Tuesday, 13 June 2006

Concerning

**VIA RAIL CANADA INC.**

and

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

**DISPUTE:**

The abolishment of 10 Senior Service Attendant positions on Trains 14 and 15 operating between Montreal and Halifax.

**JOINT STATEMENT OF ISSUE:**

On October 5, 2005 the Corporation served a fourteen day notice that it would abolish 10 Senior Service Attendant positions on Trains 14 and 15 operating between Montreal and Halifax. The notice was served pursuant to articles 13.2 and 23.2 of Collective Agreement #2. The Corporation cited a downturn in traffic as the reason for the job abolishment.

The Union submits that the reduction in staff is due in part to the implementation of the new Renaissance equipment. The Union argues that the new equipment not only reduces the number of passengers that can travel at any given time, but that the new equipment also required a change in work practices resulting in a further reduction of workload. Accordingly, the change was not only technological but also operational and organizational.

The Union requests that the reduction in Senior Service Attendant positions be found to be a technological, operational or organizational change requiring notice under article 8.1 of the Supplemental Agreement. They also ask that all those affected by the abolishment of the positions be made whole in accordance with the terms of the Supplemental Agreement.

The Corporation submits that it was a downturn in traffic on Trains 14 and 15 which necessitated the reduction in Senior Service Attendant positions. The Corporation correctly followed the process specifically set out in the collective agreement for reducing positions in these circumstances. The introduction of the Renaissance equipment was not a technological, operational or organizational change that caused the reduction in positions. The supplemental agreement is not applicable.

**FOR THE UNION:**

**(SGD.) HEATHER GRANT**  
REGIONAL REPRESENTATIVE

**FOR THE CORPORATION:**

**(SGD.) E. J. HOULIHAN**  
DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

- D. Stroka – Senior Officer, Labour Relations, Montreal
- E. J. Houlihan – Director, Labour Relations, Montreal
- K. Dias – Manager, On-Train Services, Montreal
- A. Richard – Senior Officer, Labour Relations, Montreal

And on behalf of the Union:

- D. Olshewski – National Representative, Winnipeg
- H. Grant – Regional Representative,
- G. Dunphy – Service Coordinator

### **AWARD OF THE ARBITRATOR**

The difference between the parties can be simply stated: the Union contends that the reduction in staff resulted from the introduction of new equipment. The Employer contends it results from a reduction in traffic which required the reduction in Senior Service Attendant positions. Because of its position, the Employer served notice pursuant to articles 13.2 and 23.3 of collective agreement #2. The Union says notice should have been given under article 8.1 of the supplemental agreement.

**13.2** In instances of staff reduction 14 calendar days' advance notice will be given to regularly assigned employees whose positions are to be abolished, except in the event of a strike or a work stoppage by employees in the railway industry, in which case a shorter notice may be given.

**23.1** The duties and responsibilities of the new classifications are described in the attached Appendix 10. Employees will be assigned in sufficient numbers to protect the service objectives and accomplish the work requirements defined by the Corporation. In many cases, employees will be assigned by position and train, rather than by position, train and car. In such cases, employees will be assigned to specific tasks and/or areas of work at reporting times, based on predetermined work schedules. The work schedules will specify the duties and work location(s) of each employee for each one-way trip; however, Service Managers and Service Coordinators will have the authority to alter the duties/work locations of subordinate positions to respond to changing service demands.

**8.1** The Corporation will not put into effect any technological, operational or organizational change of a permanent nature which will have adverse effects on employees without giving as much advance notice as possible to the designated National or Regional Representative representing such employees to receive such notices. In any event, not less than three months' notice shall be given, with a full description thereof and with appropriate details as to the consequent changes in working conditions and the expected number of employees who would be adversely affected.

Prior to July 31, 2003, the Employer used HEP equipment from Montreal to Halifax and return. In July 31, 2003, it introduced new equipment called "Renaissance" equipment. A second set arrived in June 2004, and a third set in May 2006. Until the arrival of the third set, the route was served both by the HEP and the Renaissance equipment.

In 2003, Renaissance equipment operated 23 of 626 trips, in 2004 and 2005 the trips were split equally.

The HEP and Renaissance train consists are similar in that both provide coach and sleeper car accommodations. Food preparation in the Renaissance is different in that a Chef is no longer required. The Employer acknowledged that as a technological, operational or organizational change and gave the required article 8.1 notice.

The issue revolves around the abolition of the Senior Service Attendant positions. The Employer takes the position that there were no changes in the directives of methods of work which contributed to the reduction. Rather, it was a downturn in

passenger traffic which reduced the amount of work to be performed on the train. The Employer further states that the reduction was not just on the Renaissance trains, but also on the HEP trains when both were running between Halifax and Montreal.

Simply put, the Employer argues that there was no reduction unique to the Renaissance trains as the reductions affected the HEP trains in the same manner.

The Union argues that the initial technological change (the introduction of the Renaissance equipment) resulted in consequential organizational and operational changes. It acknowledges that there has been an adverse effect on passenger traffic but the reduced staff is not related to that but to the new equipment being used. In other words, the new equipment, which holds fewer passengers, whether in coach or sleeper, required a realigning of the crew in accordance with the tasks required on the new equipment, and in accordance with the reduced number of passengers capable of being carried.

Effectively, what the Union is saying is that the Employer brought about the passenger reductions by having fewer passenger spaces.

Article 8.7 provides specifically that article 8.1 does not apply "... to changes brought about by fluctuation of traffic ...". Therefore, the issue to be decided is whether

there was such a fluctuation of traffic, as argued by the Employer, and whether the abolition of the positions resulted from the fluctuations.

Although the Arbitrator can appreciate and understand the angst of the Union and employees given the timing and, significantly, the introduction of the new equipment, the evidence bears out that there was no causal relationship between the two. Rather, the Arbitrator is satisfied, based on the evidence presented, that the abolition of the positions is for the reasons argued by the Employer.

The Employer presented statistical data regarding ridership dating back to 1995. From that date to the end of 2004, ridership declined each year, except for an increase from 1995-1996. In 1996, ridership was over 279,000 passengers. In 2004 it was 165,000. In the short period 2002 to the end of 2004 it went from just over 205,000 to the aforementioned 165,000. In 2002, passenger miles was just over 104,000 miles. In 2004, it dropped to just over 78,000 miles.

The Union argues that the downturn in ridership is attributable to the new equipment which holds fewer passengers. This is just not borne out by the figures, particularly given the staggered introduction of the new equipment. The stark reality is that fewer people, over the period surveyed, took the train. The Union argument also hinged on the fact that the Renaissance trains were not expandable, as the HEP equipment had been, thus artificially reducing ridership. The Employer pointed out that

although that may have been initially true, it no longer is and cars are added, as required, to meet passenger load. The statistics provided take into account this "expandability".

Also important, is that it was not only on the Renaissance trains that the base crew was reduced. On October 5, 2004, the base crew was reduced from twelve to ten on HEP trains because of the reduced passenger load. Ten is also the base crew on Renaissance trains. The need to reduce crew size on HEP trains bolsters the Employer's argument that it only requires a base crew of ten on the Renaissance trains to meet passenger load requirements based on passenger ridership. It supports the Employer's argument that the reduction in crew was "brought about by fluctuations of traffic" as provided in article 8 of the Supplemental Agreement and not because of technological, operational or organizational changes.

The grievance is dismissed.

June 16, 2006

**(signed) M. BRIAN KELLER**  
ARBITRATOR