

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

**CASE NO. 3695**

Heard in Montreal, Thursday, 11 September 2008  
Concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

and

**TEAMSTERS CANADA RAIL CONFERENCE**

**EX PARTE**

**DISPUTE:**

Awarding of "Conductor Only" Pension Credits at Moncton, New Brunswick as advertised on February 26, 2007 and September 6th, 2007.

**UNION'S STATEMENT OF ISSUE:**

On February 26, 2007, the Company advertised early retirement opportunities (Conductor Only Credits) in bulletin 3400-2 and 8304-8 with a closing date of March 29, 2007 and effective date of April 29, 2007. Mr. D. Fitzgerald and Mr. D. Hache submitted bids on these opportunities as per Addendum 3C of Agreement 4.16, however, Mr. Fitzgerald and Mr. Hache were not awarded the advertised opportunities.

It is the position of the Union, although not limited thereto, that the specific and identifiable circumstances existed at Moncton New Brunswick (North Terminal Seniority District) which required the Company to award the advertised early retirement opportunities.

On September 06, 2007, the Company advertised early retirement opportunities (Conductor Only Credits) in bulletin M005 with a dosing date of October 15, 2007 and effective date of October 28, 2007. Mr. W. Savoie, Mr. M. Fowler and Mr. T. Reagan submitted bids on these opportunities as per Addendum 3C of Agreement 4.16, however, Mr. Savoie, Mr. Fowler and Mr. Reagan were not awarded the advertised opportunities.

It is the position of the Union, although not limited thereto, that the specific and identifiable circumstances existed at Moncton New Brunswick (North Terminal 7th Seniority District) which required the Company to award the advertised early retirement opportunities.

The Company disagrees.

**FOR THE UNION:**

**(SGD.) G. ETHIER**

**GENERAL CHAIRPERSON, UTU**

There appeared on behalf of the Company:

- D. Gagné – Manager, Labour Relations, Montreal
- D. VanCauwenberg – Director, Labour Relations, Edmonton
- A. Daigle – Manager, Labour Relations, Montreal
- A. Durocher – Assistant Manager, CMC, Montreal

And on behalf of the Union:

- D. Ellickson – Counsel, Toronto
- G. Gower – Acting General Chairman, Belleville
- P. Swim – Local Chairman, Moncton
- R. A. Beatty – Witness

### **AWARD OF THE ARBITRATOR**

Having considered the positions of the parties and reviewed the materials filed the Arbitrator is satisfied that the Union is partially correct in its position. I am satisfied that there was a surplus of employees at Moncton in the spring of 2007 such as to justify the assignment of one early retirement credit under the Conductor-Only Agreement. Likewise, I am satisfied that in the fall of 2007 there was also a surplus, such as to justify the assignment of two such credits.

To the foregoing the Arbitrator would simply add the following. On the basis of the material reviewed, it would appear to this Office that the parties would greatly benefit from a full and frank discussion of current difficulties with the Atlantic Spareboard Agreement. Such discussions are obviously to be conducted and presumably concluded on a without prejudice basis.

September 15, 2008

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