

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

**CASE NO. 3898**

Heard in Montreal, Tuesday, 11 May 2010

Concerning

**VIA RAIL CANADA INC.**

and

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

**DISPUTE:**

Whether the Corporation violated article 12.11 regarding training after forced assignment of employees to an unfilled vacancy.

**JOINT STATEMENT OF ISSUE:**

In June 2009, Mr. David Delcloo was force assigned to an In-Charge position in Toronto Union Station.

The Union's position is that when an employee is forced assigned, article 12.11 states that the Corporation will commence the training of another employee immediately. The Union contends that the Corporation has consistently either not trained another employee and/or not trained them immediately. The Union further contends that the Corporation cannot use past training sessions to justify negating training needs under article 12.11

The Corporation submits that the In-Charge position involves selection for promotion and is governed by article 2.2 of the collective agreement. The Corporation maintains that that training obligation applies to a vacancy and not to a temporary vacancy as defined in the collective agreement. In addition, the Corporation submits that if the employee is able to resume their former position within 45 days due to a trained employee becoming available, the training obligation does not apply.

**FOR THE UNION:**

**(SGD.) R. FITZGERALD**  
NATIONAL REPRESENTATIVE

**FOR THE CORPORATION:**

**(SGD.) B. A. BLAIR**  
SR. ADVISOR, LABOUR RELATIONS

There appeared on behalf of the Corporation:

- B. A. Blair – Sr. Labour Relations Advisor, Montreal
- T. Kahnert – Manager, C.E., Toronto

And on behalf of the Union:

- D. Andru – Regional Representative, Toronto
- R. Fitzgerald – National Staff Representative, Toronto
- B. Kennedy – President, Edmonton

### **AWARD OF THE ARBITRATOR**

The facts of the instant grievance are essentially indistinguishable from those dealt with **CROA&DR 3897**. For the reasons stated within that award the instant grievance must be dismissed.

May 17, 2010

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