

CANADIAN RAILWAY OFFICE OF ARBITRATION

SUPPLEMENTARY AWARD

TO

CASE NO.1295

Heard at Montreal, Tuesday, December 11, 1984.

Concerning

CANADIAN NATIONAL RAILWAYS

and

CANADIAN BROTHERHOOD OF RAILWAY,
TRANSPORT AND GENERAL WORKERS.

(Decided on the basis of the parties' written submissions)
There appeared on behalf of the Company:

W.W. Wilson, Manager Labour Relations, CNR, Montreal.

S.A. MacDougald, Labour Relations Officer, CNR, Montreal.

And on behalf of the Brotherhood:

T.N. Stol, Representative, CBRT&GW, Toronto.

AWARD OF THE ARBITRATOR

This is a request for clarification of my decision reinstating the grievor, Mr. E.R. Pumphrey, on the terms and conditions set out in the original award. More particularly, the parties requested clarification of paragraph 3 of my direction where the grievor was to be reinstated to a labourer's position (provided a vacancy exists) at the MacMillan Yard on condition that:-

- 3) the grievor be treated as a probationary employee for a one year period from the date of reinstatement.

The company has advised the trade union of a vacant labourer's position at the MacMillan Yard that it is prepared to offer the grievor on the terms and conditions described in my decision.

For the purposes of clarity the grievor is "to be treated as a probationary employee for a one year period from the date of reinstatement" means:-

- (1) The grievor is to be restricted in the operation of locomotive engines or other company vehicles for the period of one year while performing the functions of a labourer. At the expiry of the one year probationary period, the grievor shall be eligible to bid for any vacant position for which he is qualified (inclusive of positions involving the operation of locomotive engines

and/or other company vehicles). The grievor's cumulative seniority shall be considered in his making of any such bid.

- (ii) The grievor shall be treated as a probationary employee for purposes of discipline during the one year period. That is to say, at arbitration, once the infraction for which discipline has been assessed is proven by the company the burden of proof then shifts to the grievor to establish a reasonable explanation and, more particularly, that such explanation is unrelated to his alcoholic condition.
- 3) It is understood and agreed that the grievor, in the event of discipline during the probationary period, shall have full access to the grievance procedure in the same manner as a regular employee.

The Board shall continue to remain seized.

DAVID H. KATES
ARBITRATOR.