CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1444

Heard at Montreal, Wednesday, December 11, 1985

Concerning

CANADIAN PACIFIC LIMITED (CP RAIL)
(Prairie Region)

and

UNITED TRANSPORTATION UNION

DISPUTE:

Applicability of Article 47, Material Changes in Working Conditions to the relocation of the home terminal of a wayfreight from Lanigan to Prince Albert in April, 1985.

JOINT STATEMENT OF ISSUE:

As a result of the change in home terminals from Lanigan to Prince Albert, Trainmen were deprived of the opportunity to work at their homes in Lanigan.

The Union contends that this is a violation of Article 47 Clause (1) (a) which reads as follows:

> "The Company will not initiate any material change in working conditions which will have materially adverse effects on employees without giving as much advance notice as possible to the General Chairman concerned, along with a full description thereof and with appropriate details as to the contemplated effects upon employees concerned. No material change will be made until agreement is reached or a decision has been rendered in accordance with the provisions of Section 1 of this Article."

The Union further contends that inasmuch as the change in home terminals was precipitated by the Company for the purpose of eliminating the need for a shop staff at Lanigan and that otherwise the work required is still identical to that required before the change in home terminals, that this cannot be related to the exceptions in Article 47 Clause (1) which reads as follows:

> "This Article does not apply in respect of changes brought about by the normal application of the Collective Agreement, changes resulting from a decline in business activity, fluctuations in traffic, traditional reassignment of work or other normal changes inherent in the nature of the work in which employees are

engaged."

The Union requests that the Company be directed to comply with the provisions of Article 47(1)(a).

The Company contends that the change in home terminals was as a result of either a traditional reassignment of work or as a result of a normal change inherent in the nature of the work and, therefore, denies that Article 47 (1)(a) applies.

FOR THE UNION:

(SGD.) J. H. McLEOD
General Chairman

FOR THE COMPANY:

{SGD.) J. D. CHAMPION
FOR: General Manager
Operation &
Maintenance

There appeared on behalf of the Company:

J. D. Champion	- Supervisor, Labour Relations, CPR, Winnipeg
R. E. Noseworthy	- Asst. Supervisor, Labour Relations, CPR, Winnipeg
B. P. Scott	- Labour Relations Officer, CPR, Montreal

And on behalf of the Union:

J. H. McLeod	- General Chairman, UTU, Calgary
P. P. Burke	- Vice-President, UTU, Calgary

AWARD OF THE ARBITRATOR

It is conceded by the company that the relocation of the home terminal of a wayfreight assignment from Lanigan to Price Albert, Sask., in April, 1985 was a "material change" that adversely affected employees within the meaning of Article 47 (1) (a) of the collective agreement.

The only issue raised herein is whether the company fell within the "highlighted" exemption under Article 47 (1) (L) from the requirement to give "notice" of the change as provided in Article 47 (1) (a) of the collective agreement. In this regard, I agree with the trade union that the onus would remain with the company (having regard to its concession) to show cause why its actions fell within the exemption. Article 47 (1) (L) of the collective agreement reads as follows:

> "This Article does not apply in respect of changes brought about by the normal application of the Collective Agreement, changes resulting from a decline in business activity, fluctuations in traffic, traditional re-assignment of work or other normal changes inherent in the nature of the work in which employees are engaged." (emphasis added)

The company provided two reasons as to why the relocation or the home terminal, as alleged,would come within the exemption. The first related to the more expeditious dispatch of freight on behalf of an important customer; and, the second related to the accormodation of a longstanding complaint made by the Municipality of Prince Albert with respect to the traffic congestion created at the company's yard by virtue of the train schedule which coincided with local rush hour traffic. In both instances, the company's impugned change removed the prexisting delay in the movement of the customer's material and eliminated the traffic congestion during rush hour at Prince Albert. The trade union did not really contest the company's evidence in either regard.

The issue raised herein has been dealt with in the past in CROA Case #332 and, as a result thereof, several instances involving the relocation of home terminals for wayfreight assignments have since occurres without complaint from the trade union. These examples were canvassed quite thoroughly in the company's brief. The bottom line is that a CROA precedent has clearly established the principle that the company's impugned action constituted an appropriate exemption from the requirement for notice under Article 47 (1) (a) of the collective agreement by reason that the said change is a "normal change inherent in the nature of the work in which employees are engaged".

In the light of that ruling the circumstances of this case have not been shown to have differed from the previous instances that have gone unchallenged by the trade union. In other words, I have been given no reason as to why I should depart from the arbitral precedent that was established in CROA Case #332.

For that reason the grievance must be denied.

DAVID H. KATES,
ARBITRATOR.