

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 1540

Heard at Montreal, Wednesday, July 9, 1986

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

CANADIAN BROTHERHOOD OF RAILWAY,
TRANSPORT AND GENERAL WORKERS

DISPUTE:

Policy grievance concerning the contracting out of OCS work at the CN PM & M Material Distribution Centre, MacMillan Yard, Toronto to CN Route employees who are represented by another bargaining agent.

JOINT STATEMENT OF ISSUE:

On October 11, 1984, the Canada Labour Relations Board certified the IBT Union to represent some CN Route "blue collar" employees in Ontario who were previously represented by the CBRT & GW.

Pick-up and delivery work at the PM & M Material Distribution Centre continues to be performed in the same manner by the same "blue collar" employees now represented by the IBT Union rather than the Brotherhood:

The Brotherhood contends that the Company violated Appendix X of Agreement 5.1. The Company denies the allegation.

FOR THE BROTHERHOOD:

(SGD.) T. N. STOL
FOR: National Vice-President

FOR THE COMPANY:

(SGD.) D. C. FRALEIGH
Assistant Vice-President
Labour Relations.

There appeared on behalf of the Company:

W. W. Wilson - Manager Labour Relations, CNR, Montreal
D. Lord - System Labour Relations Officer, CNR, Montreal

And on behalf of the Brotherhood:

T. N. Stol - Regional Vice-President, CBRT&GW, Toronto
Gaston Cote - Regional Vice-President, CBRT&GW, Montreal
R. A. Sweeney - President, Local 206, CBRT&GW, Montreal
B. Jackson - Localperson, Local 206, CBRT&GW, Montreal

AWARD OF THE ARBITRATOR

Based on the uncontradicted material contained in the parties' briefs the CBRT&GW's status to contest the contracting out arrangement

affecting employees of the merged company (i.e., CN Route Inc.) pursuant to Appendix X of Agreement 5.1 ceased upon its loss of bargaining rights arising out of the CLRB order.

Those employees' entitlements, inclusive of their job security, were thereafter governed by the collective agreement entered into between CN Route Inc., and the IBT. And, from the perspective of those employees they did not lose work. What they may have lost by virtue of the CLRB order is accrued benefits that had been hitherto earned under Agreement 5.1.

The trade union has in effect argued that the work in question, by operation of Agreement 5.1, continued to belong to employees who are represented under the scope clause of that agreement. That may very well be the case in the event that upon termination of the contracting out arrangement the work in question reverts back to the company. And, in that instance, CROA Case #713, in future, may have some relevance should the contracting out of work recur.

But in the circumstances of this case the trade union has in effect argued that the order of the CLRB terminating its bargaining rights with respect to the employees of CN Route Inc., has operated to rescind the existing contracting out arrangement between CN Rail and the merged company.

This assertion can be supported neither by the evidence nor by law.

The CBRT&GW's efforts to invoke Appendix X of Agreement 5.1 to support its claim must be concluded to be without merit.

The grievance is accordingly denied.

DAVID H. KATES,
ARBITRATOR.