CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 2130

Heard at Montreal, Tuesday, 9 April 1991

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

RAIL CANADA TRAFFIC CONTROLLERS

DISPUTE:

Appeal the Company's decision to invoke the cancellation clause contained in a Letter of Understanding and thereby revert to the application of the Collective Agreement.

JOINT STATEMENT OF ISSUE:

A Letter of Understanding was entered into between the Company and the Union on January 3, 1969 establishing four territories for spare telegraphers on the Atlantic Region. On April 23, 1983, a supplementary Letter of Understanding was entered into wherein a fifth territory for spare telegraphers was established and included in the Letter of Understanding dated January 3, 1969. This Letter of Understanding contained a thirty day cancellation clause which could be invoked by either party.

By letter dated September 12, 1985, the Company advised the Union that the cancellation clause was being invoked and the Letter of Understanding was cancelled effective November 1, 1985. Thereafter, the spare telegraphers would be governed by the terms of Agreement 7.1

The Union has contended that the employees affected were previously classified as spare Operators with a designated headquarters. By changing the headquarters the Company violated the provisions of Article 21.1(c) of the Collective Agreement.

The Company contends there has been no violation of the Collective Agreement.

FOR THE UNION:	FOR THE COMPANY:
(SGD.) P. TAVES	(SGD.) W. W. WILSON
SYSTEM GENERAL CHAIRMAN	for: ASSISTANT VICE-PRESIDENT LABOUR RELATIONS

There appeared on behalf of the Company:

D. McMeekin	System Labour Relations Officer, Montreal
W. W. Wilson	Director, Labour Relations, Montreal
S. MacDougald	Manager, Labour Relations, Montreal
D. Gignac	System Labour Relations Officer, Montreal

And on behalf of the Union:

P. Taves	National Vice-President, Winnipeg
T. Sanschagrin	System General Chairman, Winnipeg

AWARD OF THE ARBITRATOR

The Arbitrator can find no merit to the position advanced by the Union. It is clear from the material filed that the Letter of Understanding between the parties was duly terminated by proper notice delivered by the Company. In the result, the headquarters designations of the employees affected came to be determined under Article 21.1 of the Collective Agreement. Under paragraph (c) of that provision the Company is given a discretion in respect of the designation of headquarters. The letters of understanding made exceptions to that discretion and provided, in part, that the headquarters for spare telegraphers would be at the station nearest their place of residence. However, that exception ceased to exist with the termination of those agreements effective November 1, 1985. The position of the Union is to effectively bind the Company to the designation of headquarters established under the letters of understanding which ceased to be in effect. Absent any clear language to that effect in any document, including the Collective Agreement, the Arbitrator cannot conclude that that was the intention of the parties. There is nothing in the language of Article 21.1(c) to suggest that the designation of a spare operator's headquarters is immutable. Under the terms of that provision, absent any exception made by the Chief Dispatcher, a spare operator's headquarters is contemplated as being the office of the Chief Dispatcher. No such exception having been made in the instant case, the grievance cannot succeed.

For the foregoing reasons the grievance must be dismissed.

April 12, 1991

(Sgd.) MICHEL G. PICHER
ARBITRATOR