CANADIAN RAILWAY OFFICE OF ARBITRATION
CASE NO. 2362
Heard at Montreal, Tuesday, 11 May 1993
concerning
CANADIAN PACIFIC LIMITED
and
TRANSPORTATION COMMUNICATIONS UNION
EX PARTE
DISPUTE:
Applicability of Article 8.1 of the Job Security Agreement to a lay-off at the C.A.R. General Manger's Office in Saint John, N.B., effective June 30, 1992.
UNION'S STATEMENT OF ISSUE:
On June 2, 1992, Ms. Linda Wood was advised in writing that her position, Clerk Steno/Switchboard, was to be abolished effective at the end of her shift June 30, 1992.
The Union contends that the abolishment requires a notice pursuant to Article 8.1 of the Job Security Agreement.
The Union claims, on behalf of the grievor, full restitution.
The Company declined the grievance.

FOR THE UNION:
(SGD.) C. PINARD
for: EXECUTIVE VICE-PRESIDENT
There appeared on behalf of the Company:
J. S. McLean - Manager, Labour Relations, Toronto
F. B. DeWitt - Office Manager, Saint John
D. David - Labour Relations Officer, Montreal
And on behalf of the Union:
C. Pinard - Division Vice-President, Montreal
R. A. Scardelletti- International President, Washington
J. M. Parker - International Vice-President, Washington
J. J. Boyce - National President, Ottawa
D. J. Bujold - National Secretary-Treasurer, Ottawa
J. Manchip - Executive Vice-President, Montreal
L. Wood - Grievor

AWARD OF THE ARBITRATOR

The Arbitrator is satisfied that the Company is correct in its submission that the announcement of the plan to close the Canadian Atlantic Railway, which was very near in time to the abolition of the grievor's position, can have no bearing on her entitlement to an article 8 notice in the case at hand. She is clearly not directly impacted by the closing of the railway, the implementation of which is contingent upon the approval of the National Transportation Agency in Canada and the Interstate Commerce Commission in the United States, and may well take two to three years to be accomplished.

That conclusion does not, however, dispose of the grievance. The issue is whether the grievor's layoff was due, in substance, to technological, operational or organizational change within the meaning of article 8.1 of the Job Security Agreement. That article reads as follows:

8.1 The Company will not put into effect any Technological, Operational or Organizational change of a permanent nature which will have adverse effects on employees without giving as much advance notice as possible to the General Chairman representing such employees or such other officer a may be named by the union concerned to receive such notices. In any event not less than 120 day's notice shall be given, with a full description thereof and with appropriate details as to the consequent change in working conditions and the expected number of employees who would be adversely affected.

The material establishes that a number of incremental changes did impact the grievor's position over time. The introduction of the S2-MR(Merlin) and PC Edit System into the office brought a degree of automation which eliminated the need for hard copy, and decreased the grievor's workload. The dispatching staff took part of the duties previously performed by the grievor, including the typing of internal mail and the monthly bulletin. Additionally, it appears that the introduction of an automated Purchasing Inventory and Payables Systems (P.I.P.S.) in the period between 1989 and 1991 further reduced her workload. Finally, the installation of more sophisticated switchboard equipment, including voice mail for a number of managers, as well as the public listing of staff telephone numbers, diverted the volume of calls through the switchboard operated by the grievor, contributing further to the reduction of her work. There can be little doubt that some of the volume of work performed by Ms. Wood was to some extent reduced by a decline in traffic experienced by the Canadian Atlantic Railway. The evidence before the Arbitrator, however, does not establish a causal link between that reduction and the abolishment of her position. On balance, I am satisfied that the incremental changes to her work occasioned by the various elements disclosed above involved technological, operational and organizational changes which were the main operative reasons for the abolition of her position effective June 30, 1992.

For these reasons the grievance is allowed. The Arbitrator finds and declares that the Company violated the collective agreement by failing to provide notice in respect of the abolishing of the grievor's position pursuant to article 8.1 of the Job Security Agreement. It should be stressed that in light of the complexity of the factors operating at the time, the Company's action is better understood as an inadvertent error in judgment. I am satisfied that it did not intend a deliberate or conscious violation of the Job Security Agreement, although that may be the result of its action.

The Arbitrator directs that the grievor be reinstated into her position effective June 30, 1992, for a period of not less than 120 days, which is the minimum notice period provided for under article 8.1 of the Job Security Agreement to which she was entitled. She shall be paid compensation for all wages and benefits lost for that period. She shall further be provided with all other rights available to her under the terms of the Job Security Agreement.

May 14, 1993 _____
MICHEL G. PICHER
ARBITRATOR
.../ CROA 2362