

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 3339

Heard in Montreal, Thursday, 15 May 2003

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

BROTHERHOOD OF MAINTENANCE EMPLOYEES

EX PARTE

DISPUTE:

Claim on behalf of Mr. Kim Beal.

BROTHERHOOD'S STATEMENT OF ISSUE:

The grievor sustained a serious back injury while at work on July 19, 1999. Since that time he has been absent from work on authorized disability. On May 30, 2000, the grievor's neurosurgeon, Mr. Michael Schwartz, who is also Professor of Surgery at the University of Toronto, wrote a letter stating that, in his opinion, the grievor was ready to attempt a desk job. Notwithstanding this, and the grievor's 25 years of service with the Company, the grievor has never been offered a suitable position with the Company. A grievance was therefore filed.

The Union contends that: **(1)** The grievor is thoroughly trained in all aspects of office work; **(2)** Jobs were available that the grievor could have filled; **(3)** The Company has failed in its duty to accommodate this injured employee and therefore has unjustly dealt with him.

The Union requests that the grievor be assigned an appropriate office position in the Toronto area and that he be compensated for all wages and benefits lost at the appropriate rate since May 30, 2000.

The Company denies the Union's contentions and declines the Union's request.

FOR THE BROTHERHOOD:

SGD.) R. A. BOWDEN

SYSTEM FEDERATION GENERAL CHAIRMAN

There appeared on behalf of the Company:

Wm. McMurray - Counsel, Montreal

D. Laurendeau Manager, Human Resources, Montreal

R. Paradis - Workers' Compensation Claims Coordinator

P. Dren - Terminal Manager

C. Gilbert - Human Resources Associate

And on behalf of the Brotherhood:

P. Davidson - Counsel, Ottawa

G. D. Housch - Appointee, ESF, Ottawa

D. Brown - General Counsel, Ottawa

K. Beal - Grievor

At the request of the parties, the hearing was adjourned *sine dies*.