

**CANADIAN RAILWAY OFFICE OF ARBITRATION
CASE NO. 3349**

Heard in Edmonton, Tuesday, 8 July 2003

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

**UNITED TRANSPORTATION UNION
EX PARTE**

DISPUTE:

The Company's decision, demands and action, including the demand to take Mr. Ferrier's blood and to test such.

UNION'S STATEMENT OF ISSUE:

On September 30, 2002, A.N. Ferrier was party to a Continuing Employment Contract governing condition of his reinstatement.

Upon reporting for a physical examination prior to being reinstated a blood test was demanded of Mr. Ferrier. Neither the Union nor Mr. Ferrier had agreed to invasive testing as a condition of the contract. The Union contends that invasive tests, such as blood testing were not agreed to and are not a condition of reinstatement and are in violation of the *Canadian Human Rights Act*, the contract or the collective agreement.

The grievor refused to provide his blood and on this basis the Company refused to reinstate.

The Union requests that the Company cease demands for blood letting, that Mr. Ferrier be reinstated effective the date of the original contract and that he be made whole for all time out of service.

The Company declines the Union's request.

FOR THE UNION:

(SGD.) R. HACKL

VICE-GENERAL CHAIRPERSON

There appeared on behalf of the Company:

J. Coleman – Counsel, Montreal
R. Reny – Senior Human Resources Manager, Vancouver
D. VanCauwenburgh – Human Resources Manager, Winnipeg
S. Blackmore – Human Resources Manager, Edmonton
C. LaPierre – CN Chief Medical Officer, Montreal
K. Smolynec – Senior Manager, Occupational Health Services, Montreal
E. Blokzyl – Superintendent, Operations, BC South Zone
H. Nederpel – Transportation Supervisor, Kamloops
R. Baker – M.D. Medical Director, Heathquest Occupational H.C.

And on behalf of the Union:

D. Ellickson – Counsel, Toronto

R. Hackl – Vice-General Chairperson, Edmonton
W. Franko – Local Chairperson, Edmonton

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