

**CANADIAN RAILWAY OFFICE OF ARBITRATION
CASE NO. 3366**

Heard in Montreal, Thursday, 11 September 2003

concerning

VIA RAIL CANADA INC.

and

**BROTHERHOOD OF LOCOMOTIVE ENGINEERS
EX PARTE**

DISPUTE:

Manning of locomotive engineer assignments between Moncton, N.B. and Halifax, N.S.

BROTHERHOOD'S STATEMENT OF ISSUE:

The Halifax Closure Agreement was signed by the Brotherhood and VIA Rail Canada Inc. on April 21, 1993. This agreement dealt with the closure of Halifax, N.S. as home terminal and other issues related thereto, including the manning of the Moncton - Halifax assignments.

Effective with the 2000 Fall Change of Time, and over objections raised by the Brotherhood, changes to the run cycles were unilaterally introduced by the Corporation.

The Brotherhood grieved the changes and requested the Corporation man the assignments as per the specific language contained in item 6, page 6, of the Halifax Closure Agreement.

The Corporation disagrees with the Brotherhood's position.

FOR THE BROTHERHOOD:

(SGD.) C. I. SMITH

FOR: GENERAL CHAIRMAN

There appeared on behalf of the Corporation:

E. J. Houlihan - Senior Manager, Labour Relations, Montreal

A. Livingstone - Manager, Customer Services

G. Benn - Labour Relations Officer, Montreal

A. Iacono - Labour Relations Officer, Montreal

And on behalf of the Brotherhood:

R. Leclerc - General Chairman, Grande-Mère

G. Hallé - Canadian Director, Ottawa
C. I. Smith - 1st. Vice-General Chairman,

AWARD OF THE ARBITRATOR

This dispute concerns the application of the Halifax Closure agreement. By the terms of that agreement work on Moncton-Halifax trains is to be shared between Halifax based engineers from D territory and Moncton based engineers from F territory. The understanding is that that work should be available on a two-thirds to one-third ratio, as reflected in paragraph 6 of the Halifax Closure agreement, which reads as follows:

6. The regular Moncton-Halifax assignments will be crewed with four Territory "D" locomotive engineers and two Territory "F" locomotive engineers.

It appears that for a time the Corporation utilized the same two individuals from territory F to handle Moncton-Halifax assignments. It became evident to the Corporation, after a time, that there were inefficiencies in using the same two territory F locomotive engineers exclusively on the Moncton-Halifax assignments. As a result, effective with the 2000 Fall change of time, the Corporation decided to utilize a broader range of locomotive engineers from territory F to cover the assignments, resulting in a substantial saving to the Corporation by the reduction of trips over and above the locomotive engineers' guarantee, and avoiding excessive use of the spareboard. In the result the Corporation was able to realize greater efficiency and productivity.

To succeed in this grievance the Brotherhood must establish that the parties intended, as part of the Halifax Closure agreement, that the system of assignment in the administration of article 6 of the agreement contemplated that the same two locomotive engineers from territory F would be used exclusively on the Moncton-Halifax run. With respect, the Arbitrator is compelled to take the language of the agreement as it appears, and in my view it cannot be fairly construed as supporting the position argued by the Brotherhood. The fact that the assignments are to be crewed "... with four Territory "D" locomotive engineers and two Territory "F" locomotive engineers" does not, on its face, support the conclusion that the assignments must necessarily be given to the same locomotive engineers on an exclusive and continuous basis. Rather, what the provision contemplates is a one-third to two-thirds ratio in the

division of work on the assignment as between engineers based at Halifax and Moncton, respectively.

Within the ambit of the language as it appears it was open to the Corporation to realize that efficiencies could be made by sometimes assigning territory F locomotive engineers to runs between Moncton and Campbellton, as well as Moncton and Halifax, for more efficient manpower utilization. The incidental fact that under the new arrangement the territory F locomotive engineers receive assignments that include deadhead assignments that are less advantageous from an earnings perspective does not depart from the requirements of paragraph 6 of the Halifax Closure agreement. So long as the Corporation honours the obligation to divide the work in accordance with the ratio established within article 6 it cannot be said to be in violation of that agreement. The fact that territory F locomotive engineers may now be assigned trips between Moncton and Campbellton as well as trips between Moncton and Halifax, and that the Moncton-Halifax assignment is not reserved to the same two individuals does not depart from the language and intention of the Halifax Closure agreement.

For the foregoing reasons the grievance must be dismissed.

September 19, 2003

(signed) MICHEL G. PICHER
ARBITRATOR