

**IN THE MATTER OF A MEDIATION/ARBITRATION**

**BETWEEN:**

**Canadian Pacific Railway Company ("CP")**

and

**Teamsters Canada Rail Conference ("TCRC")**

**BEFORE:     The Honourable George W. Adams, Q.C.,  
              Mediator/Arbitrator**

**APPEARANCES:**

**FOR TCRC:** Michael Church, Counsel  
              Harold F. Caley, Counsel  
              Douglas Finnsen, President (TCRC)  
              Greg Edwards, General Chair LE West  
              Doug Edward, Senior Vice-General Chair CTY West  
              Dave Fulton, General Chair CTY West  
              Harvey Makoski, Senior Vice-General Chair LE West  
              Roland Hackl, Vice-President (TCRC)  
              Edward Mogus, Junior Vice-General Chair CTY East  
              Benoit Brunet, General Chair LE East  
              John Campbell, Vice-General Chair LE East  
              Wayne Apsey, Senior Vice-General Chair CTY East  
              Bruce Hiller, General Chair CTY East

**FOR CP:** Nizam Hasham, Counsel  
Larry Bertuzzi, Advisor  
Peter Edwards, Vice-President, Human Resources  
and Labour Relations  
Myron Becker, Assistant Vice-President, Labour Relations  
David Guerin, Senior Director, Labour Relations  
John Bairaktaris, Labour Relations Director  
Brian Scudds, Assistant Director, Labour Relations  
Lauren Smeltzer, Labour Relations Officer

Proceedings were held in Toronto, Ontario on May 15, 2015 and on October 5 to October 9, 2015.

### **DECISION**

I was appointed by The Honourable Dr. K. Kellie Leitch, P.C., O. Ont., M.P., Minister of Labour and Minister of Status of Women on April 17, 2015 as Mediator/Arbitrator, pursuant to section 79 of the *Canada Labour Code* and section 4 of the Memorandum of Agreement reached by the above noted parties on February 16, 2015, in order to assist them with their outstanding issues in this dispute.

Pursuant to an organizing meeting held on May 15, 2015, the parties entered into a mediation/arbitration letter agreement with Adams ADR Services Ltd. dated May 22, 2015 pursuant to which my services were provided. I then received substantial mediation/arbitration briefs and attached filings. On October 5 to October 9, 2015 I met with the parties to entertain further submissions and to better understand their respective points of view. On the basis of all such submissions, I hereby issue the following decision.

Prior to these proceedings, the parties had resolved the following issues which agreements are incorporated into this decision:

1. TERM
2. ANNUAL WAGE
3. NEW HIRE RATE (revert CBA reference to article #)
4. LIFE INSURANCE RATES AGREED TO (revert CBA reference to article #)
5. ANNUAL VACATION VACANCIES (120 day process)
6. SENIORITY LAYOFF - RECALL OFF DISTRICT (revert CBA reference to article #)
7. SENIORITY KVR GENERAL ADVERTISEMENT OF ASSIGNMENT (revert CBA reference to article #)

8. YARD REST
9. HELD OUT OF SERVICE - LETTER (APPENDIX B) (conclude language update, retain intent)
10. KLR LETTER (APPENDIX C) (as amended)
11. EXTEND HEALTH AND VISION CARE PLAN
12. SHORT TURN RULE
13. NO SCOOP
14. OUTSTANDING GRIEVANCES
15. OVER HOURS
16. TT+J ESTOPPEL LETTER arbitration referral
17. DENTAL, update annual fee guide

In respect of all other matters, I also award the following:

**1. Weekly Indemnity Benefits**

Increases of \$10 per annum to \$690, \$700 and \$710 for 2015, 2016 and 2017, respectively.

**2. Dental**

Effective January 1, 2017, increase the annual maximum covered expenses from \$1,725 to \$1,825.

**3. Rest Estoppel Letter**

Rest shall continue to be booked in hours and minutes and CP shall withdraw its notice of November 20, 2014.

**4. Deadheading on Remotes**

- a) There shall be no deadheading on mid-train remote locomotives. However, the parties shall study the concerns of the TCRC in respect of such deadheading during the currency of the collective agreement. Any disagreement on the ambit and/or timing of such study may be referred to me for summary resolution.
- b) Deadheading on tail-end remote locomotives is permitted provided Emergency Evacuation Procedures equivalent to those applicable to head-end or lead consist are followed for the following four tunnels: Detroit, Spiral, MacDonald, and Connaught. Within ten days of the issuance of this award, the parties shall meet and

work out the appropriate application of such or similar procedures to tail-end remote locomotives at these locations and all disputes may be referred to me for summary resolution.

#### **5. Consolidated Collective Agreement**

The parties are directed to consolidate the east and west collective agreement provisions for Locomotive Engineers. Similarly, they are directed to consolidate the east and west collective agreement provisions relating to Conductors, Yardmen and Trainmen. In doing so, the parties will also consider consolidating provisions common to Locomotive Engineers, Conductors, Yardmen and Trainmen. This entire consolidation exercise shall be completed within six months of the issuance of my award. Any outstanding disputes may be referred to me for summary resolution or to a mutually agreed upon neutral. The completed work product shall be printed by CP in sufficient copies for use by employees and their TCRC representatives.

#### **6. LVVR - Locomotive Voice and Video Recording**

The VIA letter language is awarded with the necessary incidental revisions for the appropriate CP and TCRC references.

#### **7. Material Change**

I award a side letter applicable only to the following proposed ESRs:

- a) Chapleau to Schreiber
- b) Lethbridge to Ft. Steele
- c) Minnedosa to Wynyard

Its content shall provide:

The following process, with suggested timing for intermediate steps, shall be completed in no later than 120 days provided that an arbitrator has made a decision before any implementation:

- Day 1
  - 1) Notice with full disclosure
  - 2) Parties then immediately agree on dates for Board of Review and *ad hoc* hearing with CROA Arbitrator.

- Day 20      3) 1<sup>st</sup> meetings within 20 days of step 1
- Day 50      4) 2<sup>nd</sup> meetings within 30 days thereafter
- Day 80      5) Board of Review or date as agreed at step 2  
6) Board of Review results
- Day 110     7) Arbitration hearing or date as agreed at step 2
- Day 120     8) Arbitration decision or as determined by the  
arbitrator
- 9) Implementation

Amendments to material change provision in the body of collective agreement are:

- 1) that Boards of Review must meet within 30 days and, if union is not able to meet within this required timeframe, CP is entitled to proceed to the next step, and
- 2) the LE shall use CROA arbitrators.

All other material change modification requests are dismissed.

**8) Overtime**

This TCRC proposal is dismissed.

**9) Yard Lunch**

I do not find there is justification for a change on this item. The TCRC and employees have rights to file grievances if CP violates the collective agreement. Accordingly, this TCRC proposal is dismissed.

**10. Time Pools and Spareboards**

This TCRC proposal is dismissed.

**11. Trainmen Held for Engineer Work**

This TCRC proposal is dismissed.

**12. Rest Past the Time Pool Window**

This CP proposal is dismissed.

**13. Union Leave**

This TCRC proposal (Tab 39) is awarded.

**14. EDO and Mileage Cap**

Save as awarded in conjunction with the item concerning TCRC's proposal for up to 48 hours consecutive rest, CP's proposals on Earned Days Off (EDOs) and removing the mileage cap are dismissed.

**15. 48 Hours**

Up to 48 consecutive hours voluntary rest may be taken by all unassigned road service employees including spareboards each month at:

- 1) 1300/2600 miles (West CTY, WEST LE and East LE)
- 2) 1450/2900 miles (East CTY)

The *status quo* restriction on booking rest prior to an EDO (24 hours) shall continue. Specifically, EDOs may not be used to extend 48 hours consecutive rest.

This award of up to 48 consecutive hours rest also applies to:

- 1) Belleville and to
- 2) ESRs unless the applicable ESR agreement excludes it.

However, the award of up to 48 consecutive hours rest does not apply to time pools. Implementation of this change shall be effective with mileage date following January 1, 2016.

**16. Extended Service Run-ESR 12 hours**

Belleville is excluded from the following award:

- 1) Up to 12 hours - in and off duty at place of rest - existing language.
- 2) Only to get train into terminal and not to work crew at initial or final terminal save and except, at initial terminal, work in connection with own train and at final terminal as per conductor only CTY to apply to both crafts.
- 3) No home terminal closures for ESRs.
- 4) Any adverse effects on any terminals must be addressed through the collective agreement material change articles.

5) An agreement must be reached in order to modify an existing ESR agreement. CP must provide 30 days' notice and provide full particulars for the basis of the request to reopen the agreement and to provide notice of all subsequent adverse effects (for example, including but not limited to Toronto, Buffalo, London ESR agreement). At a minimum, the agreement must include the following incentives:

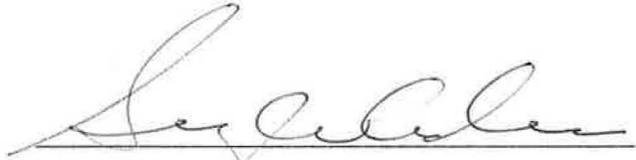
- (i) fixed mileage (as per existing ESR agreements);
  - (ii) NR payment (10 hours on duty);
  - (iii) address held away (as per existing ESRs agreements);
- and
- (iv) a deadhead payment of 125 miles.

If no agreement is reached within 60 days of notice on modifying an existing ESR agreement, CP may implement and TCRC can proceed to *ad hoc* arbitration (CROA Rules/Style) and the arbitrator has jurisdiction to resolve any outstanding issues.

**17. All other proposals not specifically dealt with herein are hereby dismissed.**

I reserve jurisdiction to resolve any disputes between the parties in implementing this award.

Dated at Toronto, Ontario this 7<sup>th</sup> day of December, 2015.



The Honourable George W. Adams, Q.C.