



Canada Industrial Relations Board

Conseil canadien des relations industrielles

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Our Files: 30114-C, 30136-C

Document No.: 525078

September 17, 2014

BY FAX

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Mr. Nizam Hasham
Legal Counsel - Litigation and Labour
Canadian Pacific Railway Company
Toronto Yard, General Yard Office
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Toronto, Ontario
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Dear Sirs:

In the matter of the *Canada Labour Code (Part I-Industrial Relations)* and a complaint of unfair labour practice filed pursuant to section 97(1) thereof by the Teamsters Canada Rail Conference, complainant, alleging violation of sections 94(1)(a) and 94(3) of the *Code* by the Canadian Pacific Railway Company, respondent. (30114-C)

In the matter of the *Canada Labour Code (Part I-Industrial Relations)* and an application for interim relief filed pursuant to section 19.1 thereof by the Teamsters Canada Rail Conference, complainant; Canadian Pacific Railway Company, respondent. (30136-C)

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Further to the hearing held September 8-12, 2014 in the above-referenced matters, the parties will find enclosed an order of the Canada Industrial Relations Board, issued in both official languages, by a panel composed of Ms. Elizabeth MacPherson, Chairperson, and Messrs. Daniel Charbonneau and Robert Monette, Members.

Sincerely,


for Ginette Brazeau
Executive Director and Senior Registrar

c.c.: Mr. Ron Hampel (403-319-6770)
Ms. Natalie Zawadowsky (CIRB-Toronto)



Canada Industrial Relations Board

Conseil canadien des relations industrielles

Order No. 741-NB**IN THE MATTER OF THE***Canada Labour Code*

- and -

Teamsters Canada Rail Conference,

complainant,

- and -

Canadian Pacific Railway Company,

respondent.

WHEREAS the Teamsters Canada Rail Conference (TCRC or the union) is the certified bargaining agent for a bargaining unit of running trades employees working for Canadian Pacific Railway Company (CP or the employer) by virtue of a certification order issued by the Canada Industrial Relations Board (the Board) on March 25, 2004 (Board order no. 8600-U);

AND WHEREAS the TCRC filed an unfair labour practice complaint against CP on September 5, 2013 alleging that the employer is utilizing non-bargaining unit employees to perform work of the bargaining unit, specifically the employer's actions in allowing members of management to operate trains (Board file no. 30114-C);

AND WHEREAS the TCRC filed a similar complaint on May 16, 2011 (Board file no. 28757-C), which was resolved on June 8, 2011 with the signing of a memorandum of agreement under the auspices of the Board;

AND WHEREAS the June 8, 2011 memorandum of agreement deals with the subject matter that is before the Board in Board file no. 30114-C;

AND WHEREAS, in the course of a hearing in Calgary, Alberta on September 8 to 12, 2014, convened to deal with Board file no. 30114-C, allegations were made that the employer has failed to comply with the June 8, 2011 memorandum of agreement reached under the Board's auspices;

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Order No. 741-NB

AND WHEREAS the Board has not yet completed its hearings into this complaint and has not yet reached a conclusion regarding the allegations contained in the complaint and the appropriate disposition of the complaint, and continuation dates have been scheduled for December 3 to 5 and December 9 to 11, 2014;

AND WHEREAS the parties are currently engaged in collective bargaining and the Board is of the opinion that the interests of constructive labour relations require that the status quo between the parties be maintained;

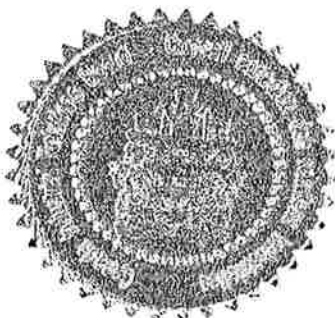
NOW THEREFORE, the Board hereby orders the parties to continue to comply with the provisions of the June 8, 2011 memorandum of agreement, as appended hereto, until such time as the Board renders a decision with respect to Board file no. 30114-C, or the parties enter into a new memorandum of agreement to resolve the issues that gave rise to the complaint, or the requirements of section 89(1)(a) to (e) of the *Canada Labour Code (Part I-Industrial Relations)* have been met.

ISSUED at Ottawa, this 17th day of September, 2014, by the Canada Industrial Relations Board.



Elizabeth MacPherson
Chairperson

Reference No.: File Nos. 30114-C and 30136-C





**CANADIAN
PACIFIC**

Alia Azlm Garcia
*Director
Labour Relations*

Gulf Canada Square
401 - 9th Avenue S.W.
Suite 600.
Calgary Alberta
T2P 4Z4

Calgary, June 8, 2011

Dave Able
General Chairman, Locomotive Engineers
101 - 10820 24 Street SE
Calgary AB T2Z 4C9
Canada

Dave Olson
General Chairmen, CTY
101 - 10820 24 Street SE
Calgary AB T2Z 4C9
Canada

RE: CIRB Complaint # 28757-C and 28758-C

Dear Sirs:

This is in regards to recent discussions concerning the use of Management personnel to perform bargaining unit work, CIRB files 28757-C and 28758-C. As we have indicated to you on several occasions, it is the neither our preference, nor our long term objective, for management employees to perform bargaining unit work. As you are aware, we are currently hiring new employees at an unprecedented rate to address the situation.

We will follow the following protocol with regard to future instances involving management employees performing bargaining unit work:

1. Collective Agreement and local decision rules relating to calling procedures and Local Chairman notification will be exhausted before management personnel is utilized to perform bargaining unit work.
2. The appropriate Local Chairman will be notified by the Local Manager when this situation arises to allow the Local Chairman the opportunity to ensure that all bargaining unit employees have been exhausted before a management crew is utilized. If the Local Chairman is unavailable, the Vice Local Chairman will be notified. If the Vice Local Chairman is also unavailable, the Local Manager will proceed with the plan to use a management crew, when available unionized crews are exhausted.

Once again, management crews will be used when no bargaining unit employees are available to ensure that customer expectations are met and that Canadian Pacific remains competitive.

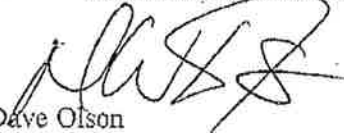
I trust that this forms a full and final resolve to the outstanding grievances and CIRB complaints #28757C and 28758-C. Please indicate the same by signing below.



Alia Azim Garcia
Director, Labour Relations



Dave Able
General Chairman, Locomotive Engineer



Dave Olson
General, Chairman, CTY



Canada Industrial Relations Board

Conseil canadien des relations industrielles

N° d'ordonnance : 741-NB**CONCERNANT LE***Code canadien du travail*

- et -

la Conférence ferroviaire de Teamsters Canada,

plaignante,

- et -

la Compagnie de chemin de fer Canadien Pacifique,

intimée.

ATTENDU QUE la Conférence ferroviaire de Teamsters Canada (la CFTC ou le syndicat) est l'agent négociateur accrédité d'une unité de négociation composée d'employés itinérants qui travaillent pour la Compagnie de chemin de fer Canadien Pacifique (le CP ou l'employeur) en vertu d'une ordonnance d'accréditation rendue par le Conseil canadien des relations industrielles (le Conseil) le 25 mars 2004 (ordonnance du Conseil n° 8600-U);

ET ATTENDU QUE, le 5 septembre 2013, la CFTC a déposé une plainte de pratique déloyale de travail contre le CP, dans laquelle elle allègue que l'employeur a recours à des employés ne faisant pas partie de l'unité de négociation pour exécuter des tâches relevant de l'unité de négociation et, plus particulièrement, que l'employeur permet à des membres de la direction de conduire les trains (dossier du Conseil n° 30114-C);

ET ATTENDU QUE la CFTC avait déposé une plainte semblable le 16 mai 2011 (dossier du Conseil n° 28757-C), laquelle a été réglée le 8 juin 2011 par suite de la signature d'une entente de principe conclue sous les auspices du Conseil;

ET ATTENDU QUE l'entente de principe conclue le 8 juin 2011 porte sur la question dont est saisi le Conseil dans le dossier n° 30114-C;

ET ATTENDU QUE, au cours d'une audience tenue à Calgary (Alberta), du 8 au 12 septembre 2014, pour instruire l'affaire dans le dossier du Conseil n° 30114-C, des

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N° d'ordonnance : 741-NB

allégations ont été formulées selon lesquelles l'employeur ne s'est pas conformé à l'entente de principe conclue le 8 juin 2011 sous les auspices du Conseil;

ET ATTENDU QUE les audiences du Conseil relatives à la plainte ne sont pas encore terminées, et que le Conseil n'a pas encore rendu de décision à l'égard des allégations formulées dans la plainte, qu'il n'a pas encore statué sur la plainte et que l'audience se poursuivra, tel que prévu, du 3 au 5 décembre et du 9 au 11 décembre 2014;

ET ATTENDU QUE les parties mènent actuellement des négociations collectives et que le Conseil est d'avis qu'il est dans l'intérêt des relations du travail constructives de maintenir le statu quo entre les parties;

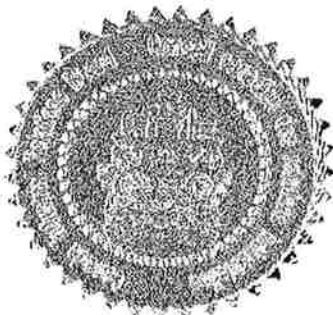
EN CONSÉQUENCE, le Conseil ordonne par la présente aux parties de continuer à se conformer aux dispositions de l'entente de principe conclue le 8 juin 2011, dont une copie est jointe à la présente, jusqu'à ce que le Conseil rende une décision dans le dossier du Conseil n° 30114-C, ou jusqu'à ce que les parties concluent une nouvelle entente de principe afin de régler les questions ayant donné lieu à la plainte, ou jusqu'à ce que les conditions prévues aux alinéas 89(1)a) à e) du *Code canadien du travail (Partie 1 – Relations du travail)* aient été remplies.

DONNÉE à Ottawa, ce 17^e jour de septembre 2014, par le Conseil canadien des relations industrielles.



Elizabeth MacPherson
Présidente

Référence : n^{os} de dossier 30114-C et 30136-C





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Alia Azim Garcia
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Labour Relations

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Calgary, June 8, 2011

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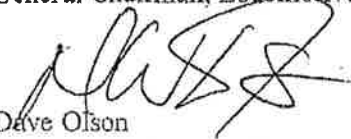
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