

IN THE MATTER OF AN INTEREST ARBITRATION

BETWEEN:

Canadian National Railway

and

Teamsters Canada Rail Conference

Before: William Kaplan
Sole Arbitrator

Appearances

For CN: Richard J. Charney
John Mastoras
Sam Keen
Norton Rose
Barristers & Solicitors

Stephanie McGuire
Senior Director, Labour Relations

Jody Evely
Assistant Vice-President and US General Counsel

Alexandria Stoyanova
Legal Counsel

Teresa Sathoo
Manager, Labour Relations

Kyle Blair
Senior Manager, Bulk

Amin Abdulle
Superintendent

Corey Wolak
General Manager

Ahmed Al-Hossainy
Senior Manager, Financial Planning

For TCRC:

Michael Church
Ethan Lewis
Caley Wray
Barristers & Solicitors

Paul Boucher
TCRC President

Ryan Finsson
TCRC Vice-President

Jean-Michel Hallé

General Chair, CN East Engineers

Alain Gatién

General Chair, CN East CTY

Louis Pedeneault

Vice-General Chair, CN East CTY

Mark Kernaghan

General Chair, CN Central Engineers

Cameron Wright

Senior Vice-General Chair, CN Central Engineers

Jim Lennie

General Chair, CN Central CTY

Glen Gower

Senior Vice-General Chair, CN Central CTY

Ed Page

Vice-General Chair, CN Central CTY

K.C. James

General Chair, CN West Engineers

Tracy Russett

Senior Vice-General Chair, CN West Engineers

Neil Irven

General Secretary Treasurer, CN West Engineers

Ray Donegan

General Chair, CN West CTY

Michael Anderson

Vice-General Chair, CN West CTY

Jeremy Butterfield

Vice-General Chair, CN West BC CTY

Monte Rutzki

General Secretary Treasurer, CN West CTY

The matters in dispute proceeded to a hearing in Toronto on March 7, 8, 9, 10, 22 & 23, and April 2, 2025.

Introduction

This interest arbitration was convened to resolve outstanding collective bargaining issues in dispute between Canadian National Railways (CN) and the Teamsters Canada Rail Conference (TCRC). The parties have a long-standing bargaining relationship but, in 2024, they were unable to reach a collective agreement. In August 2024, following a brief labour dispute, the Minister of Labour made a referral under section 107 of the *Canada Labour Code* to the Canada Industrial Relations Board (CIRB) asking it to order CN to resume operations and TCRC employees to resume their duties. The CIRB was also asked to impose final binding interest arbitration on the parties and to extend the terms of the existing collective agreements until the conclusion of the interest arbitration (which the CIRB did in a decision dated August 24, 2024). On August 29, 2024, the TCRC filed applications for judicial review of the Minister's referral to the CIRB and the CIRB's decision directing the union and the employer to recommence operations. Sometime thereafter, the parties agreed on my appointment, and they exchanged comprehensive briefs and reply briefs. The outstanding issues proceeded to a hearing held in Toronto on March 7, 8, 9, 10, 22 & 23, and April 2, 2025. The TCRC participated in the process without prejudice to any remedy it may seek in its outstanding legal challenges.

The Parties

Headquartered in Montreal, CN is a Class 1 railway serving Canada and the midwestern and southern United States. It is Canada's largest railway. The TCRC represents approximately 7000 running trades employees – mostly conductors and locomotive engineers – working on the Canadian portion of the CN network. Currently there are 14 separate collective agreements, but they are to be consolidated into a single collective agreement. The process for doing so is set out

later in this award. These collective agreements apply in two regions within CN's Canadian network: the western region stretching from Prince Rupert and Vancouver to Sioux Lookout in Ontario, and the eastern region stretching from Sioux Lookout to Halifax.

Submissions of the Parties

TCRC

In brief, the TCRC sought significant compensation improvements (including to benefits), and important adjustments to many existing work rules along with several collective agreement consolidation-specific items, together with the renewal of various letters of understanding. Its compensation proposals were, in the TCRC's view, fully justified by consideration of comparators and application of the normative interest arbitration criteria. Notably, inflation had returned with a vengeance, and it was quite clear that it was not going away (while earlier inflation was baked into prices). It was now well established in interest arbitration, the TCRC observed, for awards to meaningfully take inflation into account, which is what it asked for here.

The TCRC's work rule proposals had been unresolved for years and required immediate attention (and arbitral intervention). The TCRC proposed changes to the RX payments – to more closely align them with their deterrent purpose and intention – and to resets (among other proposals). Fatigue was real. Safety was real. Resolving these issues should be in the interest of both parties. There were associated retention and morale issues that needed to be addressed. As the TCRC observed in its submissions at the hearing, the safety of its members would not be traded off; it was not for sale.

Rest was the main TCRC priority in this round, and it was inconceivable, the TCRC argued, that improvements to existing provisions would not have been successfully bargained had the process been allowed to run its course (and not interfered with under an almost certainly unconstitutional ministerial/CIRB intervention). The TCRC urged in the strongest possible terms that its work rule proposals be awarded. The corollary of that was that CN's proposed universal 12-hour shift to name just one drawn from several of its offside proposals, should be roundly rejected (together with all its other non-normative demands that would never have been agreed to in free collective bargaining).

In summary, there was, on the compensation side, no question about the affordability of the TCRC's economic asks given CN's overall financial success, while on the work rule side, there was, in the TCRC's submission, demonstrated need for its proposals as outlined in its brief, reply brief, and at the hearing.

CN

From CN's perspective, there was a well-established pattern of wage settlements that should be followed, especially when a realistic assessment of the company's financial circumstances, including a decline in its share price, were objectively considered. Also requiring consideration – and reflection in the award – was the yet-unknown future impact of American tariffs. Some 32% of CN's volumes was tied to Canada-United States transborder shipments (together with trans modal shipments arriving at Canadian ports headed to American destinations). How tariffs affected this volume – the company's core business – remained to be seen but they would almost

certainly negatively impact the bottom line and overall financial performance. In this context, the TCRC's profligate wage and other economic proposals should, CN argued, be categorically rejected. They were completely divorced from reality, not to mention the established CN pattern, which was itself the outcome of free collective bargaining. If replication meant anything, CN argued, it meant looking first at what this employer had freely bargained with its other unions, followed by sectoral settlements more generally. None of that supported the TCRC's unprecedented wage demands.

Also important – indeed, critical – in CN's view, was positive consideration of its proposals to rationalize and modernize current collective agreement work rules. The fact of the matter was that new paid leave enactments under the *Canada Labour Code*, and the implementation of Transport Canada's *Duty and Rest Period Rules for Railway Operating Employees*, had upset a carefully calibrated collective agreement balance. Restoring that balance was critical. Summarily stated, these federal interventions imposed a series of prescriptive requirements, but they were ones that were layered on top of an existing collective agreement architecture, greatly increasing costs, requiring recruitment of additional employees, creating redundancies and anomalies and, more seriously, leading to and causing an employee availability crisis reflected in many ways, most notably a 43% increase in employee book-offs since January 2022. Simply put, the federal legislative interventions required, CN argued, consequential collective agreement adjustments.

In CN's view, it had established demonstrated need for its proposals that sought to better align existing contractual entitlements with the new statutory/regulatory framework in response to the

operational and economic realities of the railway industry. Any fair-minded assessment established a persuasive case in favour of CN's proposals for a universal maximum duty period of up to 12 hours (as was permitted under applicable legislation subject to already existing safeguards) as well as long overdue adjustments to held-away (the current configuration of which made no operational or economic sense in the context of the governing regulatory regime). CN rejected the TCRC claim that a universal 12-hour shift was unsafe. The *Duty and Rest Period Rules for Railway Operating Employees* specifically provided for it. Transport Canada had concluded that duty periods up to 12 hours in length were not a safety concern. There were the safety safeguards, and this duty period was currently applicable in many parts of the bargaining unit. The fact was that the current collective agreement daily duty limitations were simply unworkable, while heldaway required long overdue modernization. On the other hand, CN observed, the TCRC's work rule proposals would worsen the already challenging and difficult to manage situation; each and every one of them.

Stated somewhat differently, in CN's view, its proposals were what should be awarded as they best replicated free collective bargaining, while those of the TCRC would make matters worse, detrimentally affecting operations (and would never be the outcome of free collective bargaining). CN needed more flexibility under the collective agreement to align its terms with the new regulatory environment (which had produced one-sided windfall gains for the TCRC and its members). The TCRC's proposals would introduce significant and expensive new restrictions on top of those already in place. CN concluded by stating that none of the union's proposals could or should be considered absent countervailing adjustments/concessions.

Discussion

In reaching this award, the submissions of the parties have been carefully reviewed. Note is made of the numerous outstanding issues brought forward by both the TCRC and CN. Although an effort was made to assist the parties in resolving these issues, it was not successful.

In fashioning this award, all appropriate interest arbitration criteria have been considered, including a now well-established pattern of wage outcomes (which normatively include retroactivity).

The parties did not, however, agree on term. There were discussions about what may have been agreed to about this prior to this proceeding. However, and viewing this matter in context, including consideration of my overall jurisdiction, the CIRB's bottom line decision, the uncertain economic environment, and with a labour relations lens, it is quite clear that a three-year term is in order. Wages reflect the established pattern. Benefit increases are normative and build on substantial improvements gained in the last round.

It was imperative to construct a streamlined process for the consolidation of the collective agreements, and to efficiently deal with the large (and growing) number of outstanding grievances. Accordingly, the award does so (reflecting discussions that took place with the parties during the mediation phase of the proceeding).

Both parties proposed detailed changes to work rules. And both parties described the proposals they sought as justified by demonstrated need, and the ones advanced by the other party as breakthroughs that would never be accepted in free collective bargaining. This is what led to the bargaining impasse (and inability to bridge the divide in the mediation phase). Between now and the expiry of the collective agreement settled by this award the parties, obviously, need to turn their attention to both employee rest and employee availability; both extremely important issues for the TCRC and CN. Doing so is in their evident shared interest requiring their focused attention. These issues are, in my view, best resolved in free collective bargaining with its associated gives and takes. Experience in this matter indicates that they will not be resolved absent appropriate reciprocity.

Any CN or TCRC proposal not specifically addressed is deemed dismissed. The collective agreement settled by this award shall consist of the agreed-upon items – Appendix A – and the terms of this award.

Award

Term

January 1, 2024, to December 31, 2026.

Wages

January 1, 2024: 3%

January 1, 2025: 3%

January 1, 2026: 3%

Retroactivity from January 1, 2024, to all current and former employees.

Consistent with practice, these increases to be applied to wages, and to all premium payments except shift differentials, maintenance of earnings and expenses.

Benefits

Effective first of the month following the date of the award, CN shall increase the following benefits:

Dental Annual Maximum

| | <u>Essential</u> | <u>Comfort</u> | <u>Superior</u> |
|----------|------------------|----------------|-----------------|
| Awarded: | \$2025.00 | \$2525.00 | \$3025.00 |

Massage/Osteopath/Naturopath

| | <u>Essential</u> | <u>Comfort</u> | <u>Superior</u> |
|----------|------------------|----------------|-----------------|
| Awarded: | \$175.00 | \$325.00 | \$525.00 |

Hearing Aids

| | <u>Essential</u> | <u>Comfort</u> | <u>Superior</u> |
|----------|------------------|----------------|-----------------|
| Awarded: | \$350.00 | \$550.00 | \$800.00 |

Vision Care (glasses and contact lenses)

| | <u>Essential</u> | <u>Comfort</u> | <u>Superior</u> |
|----------|------------------|----------------|-----------------|
| Awarded: | \$300.00 | \$350.00 | \$400.00 |

Life Insurance

Essential

Awarded: \$71,000.00

Consolidation

1. Parties to meet within thirty days following issue of award, and to continue meeting thereafter, to create a central agreement with common core terms and provisions. A committee will be established with equal numbers of representatives of CN and TCRC (up to six each).
2. The joint meetings of up to six CN and up to six TCRC members will be scheduled as soon as possible. CN will be responsible for the expenses and lost wages of the TCRC members for ten days of meetings. CN will choose the meeting location for the in-person meetings and will be responsible for any meeting room costs. Following which TCRC may request further support and if the parties cannot agree this matter will be determined by W. Kaplan.
3. Other agreements, as amended, continue as appendices to the central collective agreement setting out local conditions for the employees covered by these former collective agreements – now appendices to the central agreement.
4. If parties unable to agree, consolidation to occur by mediation/arbitration in a process determined by William Kaplan.

Expedited Arbitration

Add:

1. For the purposes of this proposal disciplinary grievances are categorized as follows:
 - a. “Termination Grievances” being those grievances concerning i) an individual’s termination of employment, ii) non-termination discipline grievances relating to employees who were subsequently terminated, and/or iii) discipline grievances involving assessed discipline that has resulted in an employee accruing 60 or more demerit points; and

Note: Termination grievances above may be progressed under the process described in Item 1 b) below, at the option of the Union. The Union’s election is final. However, grievances currently before CROA may be transferred to the process described in Item 1 b) below.

- b. “Other Disciplinary Grievances”.

2. Termination Grievances shall proceed in the normal course pursuant to the applicable collective agreement.
3. The parties hereby agree to progressively clear the full backlog of Other Disciplinary Grievances through an expedited arbitration process, to be governed by the following terms:
 - a. The parties to submit batches of 20 – 30 grievances at a time to the following sole arbitrators on a rotational basis:
 - i. William Kaplan;
 - ii. Mark Wright;
 - iii. Maureen Flynn.

In the event of a disagreement over i) Arbitrator selection, ii) the proper characterization of a grievance, or iii) the composition of grievance batches, Arbitrator William Kaplan shall resolve such disagreement without the need to consult the parties, except as he may consider necessary.

- b. No later than 14 days prior to the hearing, the parties to exchange with each other and submit to the Arbitrator one-page (plus attachments) summaries of the issues in dispute
 - c. The parties are limited to 15 minutes each in making their submissions.
 - d. There shall be no witnesses, except as deemed necessary by the Arbitrator. Examinations and cross examination to be conducted at the discretion of the Arbitrator.
 - e. The Arbitrator will issue a summary decision on each grievance within no more than one week.
 - f. All other aspects of the expedited arbitration procedure to be determined by the Arbitrator to whom grievances have been referred.
4. The parties shall meet within 30 days of the date of the award to schedule expedited arbitrations for the duration of this Collective Agreement as per the following:
 - a. 3 days per session in person;
 - b. One session per quarter (four total): Two in Western Canada Region and Two in Eastern Canada Region;
 - c. Supernumerary session as agreed by the parties;
 - d. Location to be determined by parties or failing such by the sole arbitrator.
5. The parties shall meet quarterly to determine the composition of grievance batches, which may not be supplemented unilaterally.

Note: The withdrawal of grievances is excluded.

6. Decisions issued pursuant to this process are final and binding but will not be used as precedent.
7. The cost of the sole arbitrators shall be equally split between the parties.

Letters of Understanding

Renew:

- 1) Unfit
- 2) TFSA
- 3) ESIP
- 4) VIA Rail Passes
- 5) Brown System of Discipline
- 6) Rest Exceptions
- 7) Post-Retirement Health Care Spending Account
- 8) LVVR (Locomotive Video Voice Recording)
- 9) SAR – Work Rest Regulations
- 10) SAR – Filling Vacancies Grand Prairie/Grand Cache
- 11) NQT – Article 9.6
- 12) NQT – Article 8.1
- 13) NQT – Article 6.3
- 14) QBET/NBET – Article 2.7

Conclusion

At the request of the parties, I remain seized with respect to the implementation of this award.

DATED at Toronto this 7th day of April 2025.

“William Kaplan”

William Kaplan, Sole Arbitrator

Appendix A

U20 - signed May 17,2024 (sign off sheet)

Union Business – Investigations:

An accredited Union Representative who is attending or has booked off to attend an investigation of an employee will be compensated full lost earnings (make whole principle), but not less than a basic day at the class of service to which assigned, if the Company subsequently cancels, or reschedules the investigation with twenty-four (24) hours or less notice, providing their turn has not gone out.

U26 - signed May 17, 2024 (sign off sheet)

General Holidays (1.1, 1.2, 4.3, 4.16)

Any employee assigned to regular shifts in Road Switcher/CSA service or called for Road Switcher/CSA service to work on the general holiday will be paid time and one-half for such work, in addition will count such days pay as a day worked in computation of the five (5) straight time shifts.

LW17 - signed June 3, 2024 (sign off sheet)

Benefits

Note: Vision Care – confirm no change in prescription is required

The parties have agreed that no change in prescription is required RE: Vision care benefits for Agreements 1.1 and 1.2

E10 - signed June 4, 2024 (sign off sheet)

Housekeeping 1.1 Agreement

Remove Paragraph 1 of Addendum 42

E26 - signed June 6, 2024 (sign off sheet)

Article 16 (NQT): Housekeeping

Typo in applicable articles 16: Should be 16.3 instead of 6.3

U25 General Holidays:

Amend to reflect the deletion of all references to the requirement of having 30 days of continuous employee relationship (not required under the Canada Labour Code).

U27 Bereavement Leave:

Every Employee is entitled to and shall be granted a leave of absence that may be taken during the period that begins on the day on which the death occurs and ends six weeks after the latest of the days on which any funeral, burial or memorial service of the deceased person occurs. This leave of absence may be taken in one or two periods. The Company may require that any period of leave be of not less than one day duration.

Note: at the request of the employee, the Company may extend, in writing, the period during which the leave of absence from employment may be taken.

CTY 3 Reimbursement for passport in terminals where passports are required (Winnipeg):

Passport reimbursement (applicable to all employees)

CN agrees with the Union's demand for the reimbursement of the cost of passports in terminals where it is required for employees.

TC 7 – Article 7.2 (4.2) Transfer Time

A Traffic Coordinator required to make a transfer or turnover to another Traffic Coordinator, or complete reports in connection with the operations of the yard, after his regular assigned hours of duty will be allowed 15 minutes at time and one-half the pro-rata rate per shift.

Consolidation of Collective Agreements: Item 4 Grievance Procedure – signed of Aug 20/24
(sign off sheet)

Grievance Procedure:

In reference to the Union's demand to consolidate the Grievance procedure, the parties have agree to include the current Article 84 of Agreement 4.16 Central into all fourteen (14) Collective Agreements. The Parties also agree to add a new Article into all Collective

Agreements that dictates, either parties notice of intent to proceed to arbitration on any matter is sufficient in protecting time lines of the Grievance Procedure. Furthermore, the parties have agreed to remove Step 1 of the Grievance procedure, except in relation to Time Claim grievances.

Refer to sign off sheet for Article language

Consolidation of Collective Agreements: Item 5 Workplace Environment

Signed of June 6/24 (sign off sheet)

W31 – Add new article: Workplace Environment language from mainline agreements (For all agreements without language)

Management agrees it must exercise its rights reasonably. Management maintains it ensures a harassment free workplace environment. An employee alleging harassment and intimidation by management may submit a grievance to the General Chairperson to be progressed by the General Chairperson at his or her discretion. An employee subject to this agreement may, without prejudice, elect to submit a complaint under CN's Workplace Harassment and Violence Prevention Policy.

1.1 Agreement: Housekeeping Items

- 1) Article 17A – Add the clause from the 1995 contract i.e. – 3 stop maximum – agreed (Sign off sheet)
- 2) Article 45.6 (a) of Agreement 1.1: Ability to move from an LE position to Yard Coordinator at change of card – agreed on June 3, 2024 (sign off sheet)

At Each change of card, locomotive engineers qualified as traffic coordinator who desire so will be permitted to bid on a traffic coordinator's position. Locomotive engineers awarded such positions will remain in that classification for the duration of the change of card unless permanently displaced or cut off the traffic coordinator's working list. Promoted locomotive engineers will not be required to accept calls for or be forced on traffic coordinator vacancies.

- 3) Correct Addendum 16 to reflect its subsequent amendment (50/50) – agreed on June 6, 2024 (sign off sheet)

Mileage run, including deadheading, between Edmunston and Joffre over the Pelletier Cut-off will be equalized on a mile-for-mile basis, ~~recognizing that Territory "K" has rights to 86.8 miles and the Second Seniority District has rights to 101.3 miles~~ equally between the two terminals (50/50). Regardless of the manner in which the locomotive engineer is deadheaded, for the purpose of mileage equalization such deadhead trip will be considered to have been made over the Pelletier Cut-off. Such deadhead trip will be paid for at the following flat rate, subject to future general increases.