

Message From CAW President Buzz Hargrove

Welcome to the first edition of Rail Contact – a new CAW publication dedicated to providing news, information and analysis to the many CAW members who work in Canada's rail sector.

As the CAW heads into bargaining with CN and VIA Rail later this year, the launch of this publication is an especially timely and important communication tool that will help keep leadership and membership who work in the rail sector informed about their industry.

I urge you to read and enjoy this first edition of Rail Contact, which will be published on a regular basis. You will also be able to find copies of Rail Contact posted on the CAW website at www.caw.ca/rail.

Meeting With Hunter Harrison

As most of you are aware, the president of CAW-Canada and local union leadership met with CN in December in Montreal. There were a number of issues that were raised, including the Health and Safety Plan cancellation, various disciplines for health and safety infractions, issues related to Intermodal, the treatment of injured workers and management attitudes.

As of late, there have been improvements at Transcona and we are working our way through the remainder of the issues that were outlined in the recent correspondence to Kim Madigan, vice-president, Labour Relations. We are confident that we can make progress on the issues that are important to our membership and leadership. Hunter Harrison did clearly indicate that he is prepared to work with the CAW and instructed his staff to begin immediately addressing our key issues. We plan to have future, regular meetings with Mr. Harrison and will keep the membership and leadership updated on these discussions.

Buzz Hargrove, president, CAW-Canada, emphasized to CN that a relationship must be based upon respect for our union, its leadership and its membership.

Portability Of Trades

The CAW-Canada submission titled "Portability of Trades" has been selected to be included in the Canadian Apprenticeship Forum – Forum canadien sur l'apprentissage (CAF-FCA) June 4-6, 2006 Apprenticeship Conference in Montreal. The CAF-FCA 2006 Conference Committee "Apprenticeship – A Winning Formula" received over 50

submissions in response to a Canada-wide call for presentations.

Portability of Trades is about the difficulties of dealing with the various provincial boards in the quest to find consistent, portable Red Seal Trades for federal railways, and a focus on developing new trades and having them recognized as Red Seal Trades. We will also examine the Provincial Apprenticeship Board's processes for the development of a new trade or recognized trade in another province and some of the barriers, and our experiences with the Canadian Council of Directors of Apprenticeship (CCDA). The CAW has skilled trades working in rail in almost every province. The presentation is being developed and delivered by the CAW Skilled Trades Department and CAW national representative Brian McDonagh responsible for CAW rail workplaces.

CN Can't Do CAW Locomotive Work In Its U.S. Shops

After purchasing the Illinois Central, CN started performing some repair and maintenance work on Canadian locomotives in its U.S. shops. When Local 100 found out, it grieved, claiming that this constituted contracting-out. CN said it wasn't contracting-out, because it was doing the work itself. Arbitrator Jack Chapman agreed with the union. **Although CN has sought to overturn this decision in the courts, the parties have been holding discussions to find a negotiated solution.**

Discipline letter – in or out?

The CAW strike ended on CN with (among other things) the signing of a letter saying that the CN discipline system and standards would return to the way they were prior to 2001. When time came to print the new collective agreement, however, CN claimed that the letter should not be included. The CAW had to go to arbitration over the matter. Arbitrator Ted Weatherill, after hearing the arguments, said that unless the parties clearly agreed that it should stay out, it should go in. Moreover, he said: *"there is no disagreement that the issue of the system of discipline was an important one in the negotiations, and to include the terms of its resolution in the printed copy of the collective agreement would appear to be a matter of common sense."*

Transcona car mechanic reinstated

A 25-year service member of Local 100 was disciplined after re-injuring himself at work. He was then subject to surreptitious video surveillance while off-duty, and fired for allegedly doing activities incompatible with his medical condition. Arbitrator Picher said *“it is unusual to see an employee disciplined for simply sustaining or aggravating an injury”* and that if asked to hold employees absolutely liable every time there is an accident, he could not *“endorse nor enforce such a draconian standard”*. He threw out the video evidence, stating that *“the extraordinary step of subjecting its employee to surveillance in his private life”* must not happen except where there are *“reasonable and probable grounds”* to believe the worker is doing something wrong. He also found it *“troubling”* that the employee had been videotaped while driving.

Is A Short Term Disability An Accommodation?

National Council 4000's contention was that the corporation failed to exercise the required effort to find an accommodation for the grievor, thus violating both Appendix 7 of Agreement No. 2 as well as the prohibitions against discrimination on the grounds of a disability contained in the Canadian Human Rights Act. The union claimed that as a result of this improper determination, the grievor incurred loss of salary equal to the difference between his regular pay and his remuneration while on disability insurance.

The grievor was compensated for the difference in wages and benefits lost over and above the insurance benefits received for the entire period, save for such reasonable time as would have been necessitated by his hospitalization and post-operative rehabilitation, to the point at which he was cleared by his physician to return to work on modified duties.

CN Buys Back MacKenzie Rail

Mackenzie Northern Railway operates between Smith, Alberta and; Hay River in the North West Territories. This line was purchased from Canadian National in May of 1998, by RaiLink Canada Ltd and operated as Mackenzie Northern Railway (MKNR). In October of 2005, Mackenzie made a Section 18 application to the Canada Industrial Relations Board in an effort to merge all of the bargaining units. Employees are represented by the CAW, Teamsters Canada Rail Conference, United Transportation Union, and the IBEW. However, during the proceedings it was revealed that CN had repurchased the line. CN began operating the lines on January 19, 2006, and the complete integration of these lines into the CN network is expected to take place over the next six months. Bryon Debaets (President Local 100) and Bob Fitzgerald (President Council 4000) spoke with one voice on the issue.

On February 17th, 2006, CN wrote to the Canada Industrial Relations Board seeking leave to withdraw the original application by Mackenzie and in a news release dated January 19th, 2006, CN promised to *“honour the existing collective agreements of the acquired railways”*.

Joint Conference Gets Results

Over the past couple of years Transcona Shops was plagued by discipline when members suffered injuries. The company basically took the position that the employee was at fault for suffering almost any injury. This issue was raised at a meeting with Hunter Harrison and Buzz Hargrove and was the subject of an arbitration case involving member Dennis Rudney. At a recent joint conference with Les Lilley, Vice-President Prairie Region, Local 100; and Doug Olszewski, National Representative; about 19 cases were discussed. CN agreed to remove the discipline in approximately 14 of these cases where specific rule violations could not be identified. Another joint conference is scheduled for February 24th, 2006.

CAW Local 101, CP

During recent meetings in Winnipeg between CAW Local 101 leadership and the employer the following issues have been raised:

- Communicate with Apprentices;
- CP criteria for eligibility – diesel mechanic apprenticeship;
- Nine week upgrade;
- DSA low voltage;
- Training list;
- Diesel Mechanic Low voltage;
- Diesel apprentices in BC.

More meetings are being scheduled with the local committee and management on the above issues. We will report these as information becomes available.

Backing Ring Exemption

CN Rail has filed an application to the Minister of Transport requesting an exemption to remove loose Backing Rings from the list of Safety Defects identified in the *“Railway Freight Car Inspection and Safety Rules”*

On January 6, 2006 Transport Canada notified CN Rail that its' application had been denied. In part the Minister concluded that CN Rail *“failed to provide the total number of wheel sets that are set off annually, not only by CNR but by the entire rail industry in Canada, for a loose backing ring defect. As such, the information provided does not assess the magnitude of the loose backing ring defect condition. CNR's study of 86 wheel sets is a very small sample when compared to the many hundreds of wheel sets reportedly removed annually by the Canadian rail industry from this defect”*.

The information provided by the CAW Rail Membership and Local Officers on all three (3) Railways was invaluable, and without your help and verification of defective wheel sets removed in your respective work locations, this application may have been allowed.