

PUBLIC SERVICE STAFF RELATIONS ACT
BEFORE THE PUBLIC SERVICE STAFF RELATIONS BOARD

BETWEEN:

Treasury Board,

Employer,

- and -

Canadian Air Traffic Control Association,

Bargaining Agent.

RE: Reference under section 98 of the Act -
(Toronto ATS Facility)

BEFORE: J. Harold Brown, Q.C., Chairman.

APPEARANCES AT THE HEARING: Luc Leduc, Counsel, and Line Brutesco
for the Employer.

C.H. MacLean, Counsel, Dougald E. Brown,
Counsel, and Robert A. Marchand,
Representative.

Heard at Toronto on June 4, 5 and 6, 1984.
Continued at Ottawa on June 8, 1984.

PRT 13
CODE 402/82
CHANGE IN UNIT
SHIFTED BY EMPLOYER

DECISION

1. This reference to the Board has been made by the Employer pursuant to section 98 of the Act. In it, the Employer alleges that the Bargaining Agent has contravened the provisions of clause 13.02 (b)(ii) of the collective agreement in place between the parties as extended by the Public Sector Compensation Restraint Act (Code 402/82). Paragraph 13.02 (b) of the collective agreement reads as follows:

Standard Shift Cycle

The parties further agree that it is both appropriate and desirable that in the interests of the employees, shift cycles within which these hours are worked be standardized.

Accordingly, at those air traffic control facilities or portions thereof where through local consultation between management and the Association, a mutually agreed upon shift cycle is now in effect:

(i) such cycle will remain in effect for the term of this agreement unless through local consultation between management and the Association, a different shift cycle is agreed to,

or

(ii) a party who desires a shift cycle change shall notify the other in writing and shall include the reasons for the change. The parties shall consult on any request. A party shall not withhold its consent unreasonably. A party who refuses to consent shall deliver in a timely fashion its reasons in writing for withholding its consent.

2. This reference concerns written proposals for shift schedule changes made by the Employer to the Bargaining Agent at the Toronto Air Traffic Services facility, which is made up of Toronto Centre and Toronto Tower. The Employer also has made similar references for the air traffic control facilities at Waterloo Tower and Toronto Island Tower. Counsel requested that a decision of the Board issue for each facility. Although during the hearing separate evidence was presented relating to each facility, it was agreed that the arguments of counsel for the parties would cover all three facilities. This decision is confined to the evidence presented with respect to the Toronto ATS facility.

3. Witnesses for the Employer included David Campbell, Manager of the Toronto ATS facility, Gordon Gibson, Chief of Operations and Evaluations Division for Air Traffic Services and Ian DeSond, who is now Acting Superintendent of Operations in Ottawa. Witnesses for the Bargaining Agent included Larry Varrin, Toronto Branch Chairman for CATCA in 1983, Jim Kilburn, Chairman of the Toronto Tower branch and Robert Marchand, who has been Vice-President of CATCA since July 1, 1983 and who had previously been Ontario Regional Director. John C. Butt, who has been President of CATCA since July 1, 1983 and who was Vice-President of Administration prior to that time, also testified.

4. The evidence is that Ron Bell, the Regional Manager for Air Traffic Services, directed Ian DeSond to develop new shift schedules for the Toronto Centre and Toronto Tower facilities, as well as the Toronto Island facility and the Waterloo facility. DeSond, working with a team of three other employees, started this project in November of 1982 and

finished it between January and February of 1983. A report based on the work of the team was sent back to Bell and was also sent to the Toronto facility. The report examined the current shift schedule at the Toronto ATS facility and put forth possible alternatives to that cycle, which has been in place since 1980. It contained a recommendation that the Toronto facility shift cycle be changed from its present five days on, four days off cycle (5/4 repeat) to a six days on, three days off cycle (6/3 repeat) with a shorter work day.

5. A written proposal incorporating the idea of changing the 5/4 repeat cycle to a 6/3 repeat cycle was sent by David Campbell to Larry Varrin and Jim Kilburn, the branch representatives of CATCA for the Toronto Centre facility and the Toronto Tower facility, respectively. The letter sent to Varrin enclosing the proposal was dated April 12, 1983, and the letter to Kilburn with the proposal was dated April 18, 1983. The proposals sent to Varrin and Kilburn were identical, and put forth a number of reasons why the Employer felt that a change to the 6/3 repeat cycle would be advantageous. The proposal for Toronto Centre is contained in Appendix "A" to this decision.

6. The history of the current shift cycle at Toronto ATS and the reasons for the proposed change in shift cycle were explained more fully in the testimony of Gordon Gibson and David Campbell. The 5/4 repeat cycle was introduced in April 1980, pursuant to the signing by the parties of a Letter of Understanding dated January 23, 1980. The person responsible for the suggesting of the 5/4 repeat cycle was a supervisor, William McLeod, who was also a member of the bargaining unit. This supervisor was at a briefing session for CATCA on the implementation of the schedule and worked closely with employee representatives at that time.

7. The Employer and the Bargaining Agent agreed to the 5/4 repeat shift cycle in return for concessions given to the Employer by the employee controllers. These included the giving up of some days of refresher training by the controllers in order that they might be trained to use the new joint enroute terminal system of radar display (JETS). They also agreed to work five consecutive midnight shifts, to postpone periods of annual leave and to freeze overtime payments during the transition to the new shift cycle. Some of the concessions made by the controllers were for one time only. Other concessions, such as working five midnight shifts consecutively, are still in effect. As a result, the Employer was more easily able to train controllers to use the JETS system, and also to pair supervisors with the same controllers consistently in order to build regular crews of staff. The Employer also felt at the time that the new shift cycle might reduce overtime payments.

8. Both sides agreed that the new 5/4 repeat cycle did not meet the requirements laid down in the collective agreement for the length of a work week. However, both parties also agreed that they would waive this requirement, and the Letter of Understanding contains a provision stating that they will consider the 5/4 schedule a balanced 34 hour work week. It should be noted that Ian DeSond, who worked on the development of the proposed 6/3 repeat cycle, testified that no shift schedule could meet the requirements of the collective agreement perfectly.

9. Pearson International Airport is open 24 hours a day, seven days a week and is run on a schedule of three basic shifts a day. These include the day shift, which starts at about 06:25 and runs for eight hours and 55 minutes, an evening shift of the same duration which starts at 15:05 and a midnight shift of seven hours duration which starts at 23:07. Peak periods are covered by a swing shift. The evidence of

David Campbell is that the current shift cycle has led to overstaffing and that during some periods of the day there are controllers scheduled to work who have no work to do. He illustrated the perceived overstaffing problem through the use of a number of charts which showed diminutions in air traffic over recent years and also showed air traffic patterns for days of the month and hours of the day. It was his contention, as illustrated by the charts, that shift overlap causes a number of controllers to be scheduled at times of the day when air traffic control demands are low, particularly in the period between the midnight and day shifts.

10. According to the Employer, the problem cannot be solved simply by changing the hours when different shifts start or end. Switching to a 6/3 repeat cycle with shorter shifts would mean that there would be less of an overlap of personnel between shifts and therefore the controllers scheduled to work would have fewer periods where they had little or no work to do. A 6/3 repeat cycle would allow management to cut back on the scheduling of "spares", or controllers who are excess to the number of required staff on any given day who are scheduled for duty in order to perform various functions. The proposed cycle would change the shifts of between 145-150 persons at Toronto Centre and 26 persons at Toronto Tower. Campbell estimated that the implementation of a 6/3 repeat cycle would allow the number of staff he would need at Toronto Centre to drop to between 115 to 117 persons. At present, he needs a staff of 122 to maintain the 5/4 repeat cycle and his staff is in excess of that now. He did not explicitly set out in his proposal that his suggestion for a 6/3 repeat cycle would lead to cuts in staffing. However, he felt that this was obvious from a mockup schedule involving 21 controllers which he included with his proposal.

11. In response to the sending of the proposal by Campbell, in which he suggested that the parties meet on May 16, 1983, for formal consultation, Campbell received letters from Varrin and Kilburn. These were dated April 27, 1983 and May 3, 1983, respectively. The content of both is similar. Mr. Varrin's letter states that he would not be able to attend a consultation on May 16, 1983, due to the fact that the biannual CATCA convention was due to take place at that time. He informed Campbell that he had arranged for a general meeting of his members for June 15, 1983 and asked Campbell to attend that meeting. He suggested June 23, 1983 as a time when Campbell and the branch executive might meet for consultation. Mr. Kilburn's letter suggests June 14, 1983 for the general meeting and June 21, 1983 for consultation, but is in other respects the same. Campbell replied by letter to both Varrin and Kilburn, declining the offer to speak at a general meeting and offering to extend the consultation date to the first week of June.

12. A series of letters between Campbell and Varrin followed. On June 3, 1983, Campbell wrote to Varrin suggesting June 9 as a consultation date. Varrin replied by letter dated June 6, 1983 that he could not attend a consultation meeting before he met with his members on June 14, 1983. He also extended the invitation to attend the membership meeting to Campbell a second time in his letter. Finally, Campbell sent Varrin a memo dated June 23, 1983. It included a letter he wrote to Marchand, the Ontario Regional Director of CATCA, dated June 20, 1983. In that letter, he stated that the branch executives involved had had seven weeks to review the proposal and that if differences remained unresolved as of July 4, 1983, they would be referred to the Director, Air Traffic Services and the President of CATCA for national level consultation. When he was asked by counsel why he did not attend the branch meetings, Campbell stated that normally consultation was done between representatives of management and the CATCA branch executive.

He did not feel that there was anything to be gained by meeting directly with members. He also said that the executive could have questioned him on the proposal at any time.

13. Varrin and Kilburn testified that the reaction at the general membership meeting for both Toronto Centre and Toronto Tower was overwhelmingly negative. It was the view of members that the loss of 40 "free time" days in a year which would be caused by the new schedule was a distinct disadvantage to them notwithstanding that the proposed schedule would mean more daily "free time". Also they were of the opinion that the concessions they had made in 1980 were being ignored. As well they felt the new schedule would lead to less time to be with their families and would upset existing child care and carpool arrangements. Moreover, the controllers did not agree with the assertion in the Employer's proposal that a 5/4 repeat cycle encourages job frustration and that the 6/3 repeat cycle would reduce the stress caused to controllers as a result of too little work to do. On the other hand, Varrin's evidence is that in his experience as a controller at Toronto Centre the overlap periods were not as slow as David Campbell had indicated in his testimony. Further, to Varrin's knowledge no controller had ever complained of stress being caused by the 5/4 repeat cycle. Kilburn testified that about eight or nine controllers at the Toronto Tower out of 24 had worked under a 6/3 repeat cycle some years previously, and it was their opinion that the 6/3 repeat cycle was more tiring and more stressful for controllers.

14. Both Varrin and Kilburn testified that their members had found the proposal and the mockup schedule attached to it confusing. One problem found at Toronto Centre was a difficulty in reconciling the shorter shifts to be worked with the 24-hour period per day the airport is open. At the Toronto Tower, some confusion was caused by the fact

that the tower has a complement of about 24 controllers and the schedule used the hypothetical number of 21. Both witnesses felt that Campbell should have attended the general meeting of their respective branches in order to clarify the schedule and to respond to questions from the membership. In their opinion this kind of meeting would not be out of the ordinary for the consultation process, and pointed to the example of McLeod's briefings during the introduction of the 5/4 repeat schedule in 1980.

15. A general vote was held on the proposal and both branches rejected it. Varrin, Marchand, and Kilburn thereupon drafted a response to the proposal. Although Marchand attended the Toronto Centre branch meeting and advised the branch chiefs of their responsibilities under clause 13.02 (b)(ii) of the collective agreement, all of the witnesses for the Bargaining Agent maintained that the response to the proposal was prompted by the reaction of the members within the branches. They maintained that it was the view of the Bargaining Agent that consultation and response under clause 13.02 (b)(ii) were to be on the local level, rather than on the national level. Although the number of controllers who voted on the proposal differed in the Toronto Centre and Toronto Tower branches, the wording of the response was basically the same for both branches. The response of Toronto Centre is contained in a letter dated July 13, 1983 from Varrin to Campbell the body of which is Appendix "B" to this decision.

ARGUMENTS FOR THE PARTIES

16. Counsel for the Employer submitted that there must be a standard of reasonableness implied in clause 13.02 (b)(ii) of the collective agreement and that a guide to reasonableness can be found within the terms of the collective agreement. In order to be

reasonable, the Bargaining Agent's response to the Employer's proposal must allege either that a change in shift schedule would breach a provision of the collective agreement or that the change would not provide for a standardized shift cycle. Since the Bargaining Agent has not been able to show that the Employer's proposal fails to meet those criteria, its rejection of the proposal was unreasonable.

17. This interpretation of reasonableness is supported by other provisions of the collective agreement. Clause 13.02 (b)(ii) is not a management's rights clause for the Bargaining Agent. The rest of the collective agreement has to be considered when one examines the scope of clause 13.02 (b)(ii). For example, in Article 1 of the collective agreement, the parties agree to improve the efficiency and quality of air traffic control service to the public and this must be taken to mean something in the context of clause 13.02 (b)(ii). Article 3, the management's rights clause, clearly shows that the Employer has residual rights to manage its employees and 13.02 (b)(ii) does not abrogate the right of management to schedule the hours of employees or to lay them off. By withholding its consent to the proposed schedule change, the Bargaining Agent has offended the management's rights clause. In addition, since section 7 of both the Financial Administration Act and the Public Service Staff Relations Act give the Employer the power to organize the Public Service, the Bargaining Agent's response offends these legislative provisions.

18. Counsel maintained that there had to be criteria for reasonableness in the interpretation of the article and cited the Bernier case (Board file 166-2-13603) as an example of a decision in which the adjudicator upheld a standard of reasonableness on the issue of consultation. However, even assuming for purposes of argument that there is no standard of reasonableness implied in the collective

agreement, the Employer's proposal was reasonable on the merits. Mr. Campbell's evidence showed that the proposed 6/3 cycle was more cost efficient than the present cycle. Although the Employer asked the Bargaining Agent to make concessions four years ago for the implementation of the present cycle, the period where concessions were needed has passed.

19. On the subject of consultation, counsel for the Employer did not claim that no consultation had taken place, but stated that the Bargaining Agent had not made sincere efforts to sit down with Campbell, the Employer's representative. Management tried to arrange meetings for specific dates with the Bargaining Agent, but the Bargaining Agent refused to meet with management, saying that it wanted to consult with its membership. This was not the normal consultation process for the parties and neither was the Bargaining Agent's request that Campbell appear at a general meeting of the membership. Campbell demonstrated continued willingness to meet with the Bargaining Agent and in fact the Bargaining Agent's representatives should have requested any additional information they needed from him in order to inform the membership. Counsel for the Employer asserted that the Bargaining Agent did understand the changes that would be made by the implementation of a 6/3 system. If the Bargaining Agent claims that the 6/3 system was not understood by its members, it can only mean that they willingly closed their eyes to the implications of the proposal.

20. Counsel for the Bargaining Agent submitted that the standard of reasonableness proposed by counsel for the Employer in relation to clause 13.02 (b)(ii) would deprive the clause of meaning. In addition, his interpretation violates the canons of interpretation and is completely at variance with the collective agreement. The rule of legal interpretation is that the general gives way to the specific and this is

how management's rights clauses fit into the overall scheme of a collective agreement. The object of such a clause is to lay out the scope of management's authority. This is then modified by subsequent provisions in the collective agreement. Article 13 contains provisions which make inroads into the rights of management to schedule the hours worked by employees. However, this does not provide the Bargaining Agent with "powers of management", as alleged by counsel for the Employer.

21. In the case of clause 13.02 (b)(ii), where a party proposes a change of shift in writing and the other party refuses, the change will nevertheless take place if there is sufficient objective evidence to support it. The decision of the Board in Bernier (supra) which counsel for the Employer cited with respect to the issue of reasonableness was based on a clause with different wording and has no application to the instant case. In order to decide what constitutes the withholding of consent unreasonably, a better guide would be the standard set out by Adjudicator David Beatty in the case of Benson (166-2-2557). This involves a two-fold test. The manner in which the decision was made must be reasonable and the decision itself must be reasonable. In the instant case, the Bargaining Agent fulfilled both parts of that test. In terms of the process of decision-making, the Bargaining Agent took a number of steps which prompted it to respond to the Employer's proposal in the negative. For example, the decision on the proposal would affect every member of the branch and it was reasonable to poll the members in order to get their reaction to the proposal. Although the Employer's proposal for Toronto ATS was confusing, in that it referred to 21 controllers and the reference to a number made understanding the proposal difficult, it was nevertheless clear to the employees that the implementation of a 6/3 schedule would lead to a loss of staff. Both the process of decision-making and the response to the proposal were therefore reasonable.

22. On the other hand, the Employer's proposal was not reasonable. For instance, the Employer alleges that the present 5/4 repeat cycle is in breach of the collective agreement because it does not fulfill the requirements of the collective agreement concerning hours of work. However, it is clear from the report of Mr. DeSond, that the parties knew this when they agreed to the implementation of the schedule. Furthermore, all of the schedules proposed by the Employer show some minute variations from the collective agreement in the number of hours worked.

23. As for the Employer's arguments on efficiency, while Campbell stated that he was overstaffed even on a 5/4 repeat schedule he had no immediate plans to reduce the workforce. This admission places in doubt the claim of overstaffing. The Employer's argument that the change to the 6/3 repeat schedule would cut down on unproductive controller time also is questionable. Although Campbell testified that there were low points at the beginning and end of the day when there were too many controllers working, the evidence of Varrin, who is an air traffic controller in Toronto, indicates the opposite. As well, Campbell's evidence is that neither the 6/3 cycle nor the 5/4 cycle really affect the number of spares. DeSond's evidence on this point, however, is to the contrary.

24. In terms of benefits to the air traffic controllers themselves, the proposed 6/3 cycle is less advantageous than the present 5/4 cycle. It is clear the proposed cycle will lead to controllers having 40 fewer days off a year, leading to a significant loss of "free time" and also to increased commuting costs. The daily rate of pay will be decreased, which will adversely affect certain benefits and overtime payments. Although the Employer claimed that the changed schedule would reduce

stress among controllers, no controller ever complained that the 5/4 repeat cycle had increased stress. Taking these factors into account, the rejection of the proposal by the Bargaining Agent was reasonable.

25. In reply, counsel for the Employer agreed with counsel for the Bargaining Agent that the tests for reasonableness set out in Benson (supra) could be applied to the Bargaining Agent's decision to reject the proposal of the Employer. He questioned whether the Bargaining Agent's process of decision-making could be considered reasonable and asserted that a vote by the membership was not sufficient in these circumstances. In addition, he pointed out that in the cases involving special leave, such as Benson, the party responding to the request is restricted to the reasons given at the time and cannot add new reasons at the hearing in order to bolster its case. Here the Bargaining Agent has added several reasons that were not included in the original letter of rejection, including the fact that the daily rate of pay would be lower, that some benefits would be affected adversely and that the Bargaining Agent felt that the concessions made by it at the time the 5/4 repeat cycle was implemented should be recognized. The Bargaining Agent's response also failed to address the merits of the Employer's proposal, such as the issue of efficiency. The Bargaining Agent should not be allowed to address such issues after the fact. Furthermore, Varrin's evidence was not strong enough to contradict Campbell's evidence concerning excess staffing.

DETERMINATION OF THE BOARD

26. Paragraph 13.02 (b) contemplates that at those air traffic control facilities where, through local consultation between management and the Association, a mutually agreed upon shift cycle is in effect, that cycle will remain in force for the term of the collective

agreement. By clause (i) of the paragraph, however, an existing shift cycle can be changed provided that there is agreement on a different cycle. Clause (ii) provides another procedure for changing a shift cycle during the life of a collective agreement which is described in the following terms:

- (ii) a party who desires a shift cycle change shall notify the other in writing and shall include the reasons for the change. The parties shall consult on any request. A party shall not withhold its consent unreasonably. A party who refuses to consent shall deliver in a timely fashion its reasons in writing for withholding its consent.

27. As I interpret the language of the foregoing clause, either party proposing a change in the existing shift cycle only would do so for sound reasons from its point of view. Similarly, the other party would withhold its consent only for sound reasons, from its point of view. However, simply because the change proposed by one party has genuine merit when looked at from its vantage point does not mean that the withholding of consent to the change by the other party would be unreasonable. Indeed, the latter's grounds for not accepting the proposal may not refute or even address the arguments advanced in support of the proposal. Nevertheless, viewed from its position, the stance may well be warranted. Stated another way, the reasonableness or unreasonableness of the withholding of consent must be assessed from the perspective, not of the party making the proposal, but rather from the party rejecting it. Having said that, I would proceed with a consideration of the situation before me in the instant case.

28. First of all, I find that there was local consultation between responsible management officials of the Employer and authorized branch

representatives of the Bargaining Agent over the proposed change in the shift cycle at the Toronto ATS facility which is the subject matter of the instant reference, albeit mostly in writing. This includes both the Toronto Centre (ACC) facility and the Toronto Tower facility. I would add, however, that the nature and quality of the exchanges between them leave more than a little to be desired. Be that as it may, I find that the parties did consult on the request for the change in the shift cycle made by the Employer within the meaning of the above provision.

29. On the issue of consent, the evidence suggests that the air traffic controllers at both the Toronto Centre and Toronto Tower facilities did not fully appreciate from the written proposal all of the ramifications that would flow from a change from the existing shift cycle of five days on and four days off (5/4) repeat to a six day on and three day off cycle (6/3) repeat. However, while there may have been some confusion and uncertainty as to the consequences that would flow therefrom, I am satisfied that they were aware that, although under the 6/3 repeat shift cycle they would have a shorter work day, they would lose 40 "free time" days off work that they enjoyed under the 5/4 repeat shift cycle. Further, I am of the view that the controllers perceived that the implementation of the 6/3 repeat cycle would ultimately result in a reduction in the number of controllers needed on the shifts and in a loss of a number of positions from the bargaining unit. I would mention here that this latter prospect was not referred to either in the Employer's proposal or the response of the two affected branches of the Bargaining Agent. The evidence also makes it clear that the controllers were opposed to the proposed shift cycle because its implementation would disrupt existing patterns of living such as carpools and day care arrangements.

30. I cannot accept the position of counsel for the Employer that the withholding of consent is unreasonable unless the proposed change contravenes some provision of the collective agreement or would not provide for a standardized shift cycle. According to the evidence neither the present nor the proposed shift cycle provides for a completely standardized shift cycle. Furthermore, it was recognized that the present shift cycle did not strictly meet the requirements laid down in the collective agreement for the length of a work week. However, the parties waived that requirement.

31. Whether consent has or has not been unreasonably withheld must be decided on the basis of objective criteria. It would not be reasonable to withhold consent to a proposed change in a shift cycle solely on the basis that the proposed change would be less convenient to the employees than their current schedule. Rather, the withholding of consent must be based on criteria which reflect the legitimate interests and concerns of the Bargaining Agent and the employees its represents. In the application of such criteria it was not unreasonable for the controllers to withhold their consent to the Employer's proposal on the grounds that it would result in their losing 40 full "free time" days off work in each year which they now enjoy under the 5/4 repeat shift cycle. I say this notwithstanding that the proposed 6/3 repeat cycle would mean that they would have more daily "free time" as a result of a shorter regular work day. The difference involves a real change in their existing conditions of employment which the controllers did not wish to voluntarily relinquish. Further, the possibility of fewer controllers on a shift and the probable sequential reduction in the size of the bargaining unit were not prospects to which they could have readily been expected to accede. Changes of this nature transcend mere inconvenience and relate to matters that would be of justifiable concern to any bargaining agent.

32. I would point out that in another circumstance it is conceivable that the Bargaining Agent would be the party proposing a change in the shift cycle which would entail an increase both in the number of "free time" days and the number of controllers on each shift. In that event the Employer might withhold its consent on the grounds of the added cost involved. In this theoretical situation, notwithstanding the merits of the proposal, the Employer's rejection of it in all likelihood would not be unreasonable. In other words, it must be remembered that the clause has application to both parties.

33. In the result, I am satisfied that the decision of the controllers to withhold their consent to the Employer's proposal was not unreasonable. Accordingly, I find that the Bargaining Agent has not contravened clause 13.02 (b)(ii) of the collective agreement.

34. Therefore, the instant reference must be and is hereby dismissed.

DATED AT OTTAWA, this 1st day of October 1984.

"J. Harold Brown, O.C."
for the Board

PROPOSED SHIFT CYCLE CHANGE

Background

A 5-4 (repeat) shift cycle was introduced in 1980 to resolve certain issues which existed at that time; i.e. reduction of overtime; pairing controllers to supervisors; elimination of wave effect; create more spares for annual leave; accommodate JETS training.

The longer hours which are common to such a shift cycle were of certain benefit when the move was made to the new ACC in January 1981, whereas it permitted controllers to become more familiar with the new Automated Systems (JETS/ICCS) during lesser traffic periods. Many of the implied benefits at that time, when the cycle was implemented, did not materialize and the cycle is now considered to be costly and a major deterrent to unit productivity.

The hours of work contained in the existing 5-4 (repeat) cycle contravene the minimum hours of work and cannot be averaged over a period of time not exceeding seventy (70) days, which is in contravention of the collective agreement (Article 13.02). In addition, declining traffic and more refined means of determining staffing and staff requirements has prompted the review of the shift cycle currently in place.

Current Situation

The current 5-4 cycle demands an employee's presence for approximately 8 hours and 55 minutes per day at the work place. This is unnecessary operationally and unproductive in terms of "required time on duty". A reduction of duty time to 7 hours and 20 minutes per day is realized through a 6-3 cycle.

Other Considerations

This reduction, coupled with the alignment of shifts to coincide with reduced traffic demands, will result in more gainfully employed persons. One of the major shortcomings of the 5-4 (repeat) cycle is its unusually long shift period which encourages job frustration.

The study conducted by the Clarke Institute of Psychiatry includes controller statements which indicate that long hours of minimal traffic leads to boredom which increases the likelihood of errors through inattention and lack of concentration.

A significant benefit to the employee is the reduced demand to work overtime and the additional daily free time to pursue personal activities.

Proposal

A recent traffic analysis shows that aircraft movements handled by the Toronto ATS Facility are declining. In order to establish the most cost/service effective method of staff utilization in the Toronto ATS Facility, it has become necessary to investigate a number of alternatives relating to shift cycles for control personnel.

In view of staffing levels and current depressed traffic demands an indepth review of alternative shift cycles was conducted; i.e. 5-3/5-4 (repeat), 5-3/4-3 (repeat), 6-3 (repeat), 5-3 (repeat).

Of the shift cycles investigated the 6 on and 3 off (repeat) was found to be the most efficient and effective (Copy attached). This cycle 6-3 (repeat) provides a shorter work day (7.30 hours), better staff utilization and meets all contractual commitments and operational requirements.

APPENDIX "B"

"We have reviewed your proposal for a shift cycle change. You have expressed in your narrative your major concerns, i.e.:

1. The 5-4 shift cycle is now considered to be too costly.
2. The 5-4 shift cycle is a major deterrent to unit productivity.
3. The hours of work contained in the existing 5-4 shift cycle contravene the Collective Agreement.
4. Long hours of minimal traffic leads to boredom.

You also indicated that a 6-3 shift cycle would translate into a significant benefit to the employees because of reduced demand to work overtime and the additional daily free time to pursue personal activities.

The cost factor is one issue which we will not dwell on. This matter is best suited for the bargaining table.

On the issue of productivity, we would like to point out that many employers, both in private and public sectors, have realized a significant increase in the productivity after a longer day, shorter work week (4 days on, 3 days off) had been implemented. As an illustration we submit the following extract from a book entitled "Shrewd Business", copyright 1982, Boardroom Reports, Inc., 500 - 5th Avenue, New York, New York, 10110.

4 Day Work Week

Results of a study of the 4 day week, in 143 companies.

	<u>Increase</u>	<u>Decrease</u>	<u>No Change</u>
Cost	11%	38%	51%
Productivity	62%	3%	35%
Profits	51%	4%	45%

Main benefits:

- a) Improved employee relations (69% of companies - no change for 31%).
- b) Reduced absenteeism.
- c) Easier recruiting.

As illustrated, the 62% increase in productivity is a clear indicator that a longer day, shorter week is most definitely preferable.

The hours of work contained in the 5-4 shift cycle do not contravene the minimum hours of work. Article 13.05 of the TC/CATCA Collective Agreement reads as follows:

"13.05 Every reasonable effort shall be made by the Employer:

- (a) not to schedule the commencement of a shift within eight (8) hours of the completion of the employee's previous shift;
- (b) not to schedule shifts of less than seven (7) hours' duration;
- (c) to advise employees affected by changes in their shift schedule as soon as practicable."

(underlining ours)

The midnight shift at the Toronto Facility, the only one of less than seven hours, was mutually agreed upon.

The Clarke Institute of Psychiatry Study revealed that twenty-seven percent of the subjects reported boredom as a stress factor in their work. And of this twenty-seven percent, only two controller statements were published. They are reproduced from page 21 of the Report.

"At this particular unit an extreme lack of aircraft produces a lack of work, and boredom is hard to combat. Plus, for the past month, the weather has been very poor and it adds to the above problem. It is quite hard to remain alert and concentrate for long periods of time without much to do."

"Slack periods tend to render me less alert, causing frequent mistakes."

Surely, one would not suggest that the Toronto Facility suffers from an extreme lack of aircraft. We do not believe that weather conditions have been very poor and added to the problem.

We must also refer you to page 5, paragraph 5 of the same report:

"Care was taken to distinguish wherever possible between actual findings and less systematic data, and this report should be interpreted with that distinction in mind."

The NATO, Advisory Group for Aerospace Research and Development, AGARDograph No. 275, in a study of human factors in air traffic control, had this to say about shift cycles and long hours of work:

"Work-rest cycles and rosters are an emotive topic in air traffic control. The human factors specialist is not often asked for an impartial assessment of all the relevant evidence, but for any available carefully selected findings that could possibly support a stance that is proving difficult to defend. Although he may look askance at such requests from any source, since they are difficult to reconcile with his impartiality, even-handedness, and scientific integrity that must be preserved at all costs if his own role is not to be jeopardized, nevertheless in practice such requests are not as embarrassing as they could be. The reason is simple. Despite many laboratory findings on the potentially adverse effects of major disruptions of circadian rhythms, of long hours of continuous work, or of inadequate sleep, in real life tasks these effects are generally noticeable by their absence. The evidence is overwhelming that working hours, unless they are in some respects extreme, do not have major effects on air traffic control or on controllers.

Salient considerations in determining acceptability are the number of whole days off work that a revised rostering would provide as compared with the existing number, the extent to which controllers can plan ahead knowing when they will or will not be at work, and

changed differentials between the hours of work or enjoyed parity or a clearly defined fixed comparative relationship. Changes in rostering which convey advantages in any of these terms may be favoured as strongly as other changes which convey disadvantages in these terms would be resisted.

A main factor in determining work-rest cycles is their acceptability. A main determinant of acceptability is the number and group of complete days off work. Controllers may tolerate, and even welcome, quite arduous work-rest cycles which increase the number of whole days off. Their competence and state of alertness are influenced more by their tasks, traffic demands, the presence and proximity of colleagues, and involvement in teamwork, than by work-rest cycles.

Motivation, morale, traditional practices, professional norms and standards, agreements with colleagues, and constraints on family life, are further determinants of the acceptability of work-rest cycles."

We accept that additional daily free time to pursue personal activities is achieved by working a 6-3 shift cycle. Our preference is for an accumulation of this daily "freetime". The result is the additional day off when working the present 5-4 shift cycle, much more suited to family life and other personal activities.

We have seriously considered your request, the Branch Council has discussed it intensively, and we held a Branch meeting on the 14th of June to inform the members of your proposal and accept their input. We had discussions with yourself on the matter. Finally, we held a Branch Referendum on the issue.

As you can tell, by the amount of activity generated by your request, we have seriously weighed all factors and regrettably must inform you that we cannot accept your proposal at this time.

The result of the Branch referendum is as follows:

"Are you in favor of the Management proposal to change to a 6/3 shift cycle?"

Of the 137 ballots distributed to the members, 130 voted No. There were no spoiled ballots, and seven did not vote."