

CANADIAN RAILWAY OFFICE OF ARBITRATION

SUPPLEMENTARY AWARD

CASE NO. 2680

concerning

ONTARIO NORTHLAND RAILWAY

and

UNITED TRANSPORTATION UNION

Based on the written submission of the parties.

AWARD OF THE ARBITRATOR

17 May 1996

Lloyd Marshall
General Chairman, UTU
North Bay, Ontario

Mike Restoule
Manager, Labour Relations, ONR
North Bay, Ontario

Further to your letters of March 5, 1996 and April 1, 1996, I am happy to provide clarification of the intention of the award in the matter of Mr. Quevillon's grievance and reinstatement (**CROA 2680**). The intention of the award, as is usual in cases of this kind, is to substitute a lengthy suspension for the demerit marks which were assessed against the grievor. There is nothing in the award which would contemplate his return to work at fifty-nine demerits. This Arbitrator's intention is that the grievor be reinstated with his record to stand at twenty-five demerits, the position he was in prior to the discipline which was the subject of the award.

Secondly, the Arbitrator has substantial concern with the Company's interpretation of the grievor's obligation as it relates to the requirement to be subject to random alcohol testing, in a non-abusive fashion, for a two year period following his reinstatement. It is generally understood that a direction of that kind allows the Company to require an employee to undergo alcohol or drug testing at the Company's initiative, without prior notice, at any point in time when the employee is on duty, or in a reasonable time immediately before or after a period of duty. It does not contemplate an employee being summoned by the Company during his days off or a leave of absence to be subjected to such testing. In the result, the Company's directive that the grievor be available for alcohol testing on two hours' notice, seven days a week, is beyond the requirement for a reasonable right of random alcohol testing contemplated in the award.

The position of the Union, as stated in the letter of Mr. Marshall of April 1, 1996, with respect to both the grievor's level of demerits and the conditions for random alcohol testing are sustained.

Yours very truly

(signed) Michel G. Picher

Arbitrator