

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 2938

Heard in Montreal, Wednesday, 11 March 1998

concerning

**CANPAR**

and

**TRANSPORTATION COMMUNICATIONS UNION**

### **DISPUTE:**

Appeal of discipline assessed to Mr. Lance Cadogan, Brandon Christie, J. Digirolamo, Davis Dunn, Denis McIntyre, Gilles Poliquin, David Smith, Peter Tessier, Sean Whitton and Steve Wheatly of Montreal, who were assessed twenty (20) demerits regarding the alleged work stoppage on October 30, 1997.

### **JOINT STATEMENT OF ISSUE:**

The Union contends that on October 30, 1997, at approximately 08:15 Supervisor Gerard Mosquera told to the West Island English employees to stay in the cafeteria to watch a safety video. At 08:30 the Terminal Manager, Dean Cardi, came into the cafeteria and the employees started asking questions why a ticket for a no trucking zone was not being paid by the Company.

The Terminal Manager replied he personally felt that the Company should pay the ticket but his boss said not to pay it. He also told the employees to stay in the cafeteria and the Regional Manager, Mr. Robert Dupuis would be out in a few minutes to give his explanation. No orders were given by either Cardi or Dupuis to go to work, but rather they would simply be given an explanation of the situation. The employees did what they were told.

The Union contends that the discipline was unjustified and unwarranted, therefore requested that the discipline assessed be removed from their records.

The Company declined the Union's request.

### **FOR THE UNION:**

**(SGD.) R. NADEAU**  
DIVISION VICE-PRESIDENT

### **FOR THE COMPANY:**

**(SGD.) P. D. MACLEOD**  
DIRECTOR, LINEHAUL & TRANSPORT

There appeared on behalf of the Company:

M. D. Failes	– Counsel, Toronto
P. D. MacLeod	– Vice-President, Operations, Toronto
R. Dupuis	– Regional Manager - Quebec, Montreal
D. Cardi	– P&D Manager, Montreal
G. Mosquera	– Supervisor, Montreal

And on behalf of the Union:

D. Dunster	– Executive Vice-President, Ottawa
R. Nadeau	– Division Vice-President, Quebec
R. Pichette	– Local Chairman
S. Wheatley	– Witness
C. Mercier	– Witness

**AWARD OF THE ARBITRATOR**

The facts relating to the instant dispute are fully related in **CROA 2937**. It appears that some ten English speaking drivers, normally assigned to the Montreal West Island, were to have reported to the video room at 8:30 a.m. at the commencement of their shift. The Arbitrator is satisfied that they failed to do so by reason of their deliberate participation in the work stoppage, prompted by the non-payment of a fellow driver's traffic ticket. For the reasons related in **CROA 2937**, the Arbitrator is satisfied that the assessment of twenty demerits was appropriate in the circumstances. The grievance is therefore denied.

March 13, 1998

**(signed) MICHEL G. PICHER**  
**ARBITRATOR**