

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 3132

Heard in Montreal, Wednesday, July 12, 2000

concerning

VIA RAIL CANADA INC.

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Bruce Morin – Bennet Mechanical Comprehension Test.

JOINT STATEMENT OF ISSUE:

The Brotherhood contends that the Corporation has improperly administered and/or evaluated the Bennet Mechanical Comprehension Test taken by Mr. Morin.

The Corporation denies the Brotherhood's contention.

FOR THE BROTHERHOOD:

(SGD.) J. L. SHIELDS
FOR: GENERAL CHAIRMAN

FOR THE CORPORATION:

(SGD.) J. LAFLEUR
FOR: DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Corporation (among others):

J. Lafleur – Counsel, Montreal

And on behalf of the Brotherhood (among others):

J. L. Shields – Counsel, Ottawa

J. Tofflemire – General Chairman, Toronto

AWARD OF THE ARBITRATOR

Mr. Morin scored a failing grade of thirty-seven in the Bennet Mechanical Comprehension Test. Significantly, however, he relates that he was alone in a room when he took the test, overseen by a secretary who was in charge of administering it. It is common ground that the test, generally given to groups of candidates, was to be performed within a period of thirty minutes. The instruction materials for the person supervising the test direct that he or she is to advise the candidates that they will have thirty minutes. The unchallenged testimony of Mr. Morin is that he was never told that the test had a thirty minute deadline. He relates that in fact when the secretary returned to the room to collect his test he still had twelve unanswered questions, which he hurriedly attempted to answer.

This Office has previously recognized that an element of a fair test is that a candidate be told the time that is allowed (**CROA 1774**). In the Arbitrator's view Mr. Morin's case presents a compelling basis to consider a re-administration of the test in his case. The instant testing documents themselves make it clear that candidates should understand that the test has a thirty minute time limit. Such knowledge is obviously important for anyone writing the test, if only to assist in the budgeting of time and the pace at which it is to be performed. Accepting as I do that Mr. Morin was never advised of the thirty minute time limit, and that in fact his ignorance in that regard worked to his detriment, I am compelled to conclude that the administration of the test was not fair with respect to him.

Mr. Morin's grievance is therefore allowed. The Arbitrator directs that he be afforded an opportunity to be tested again, whether by way of the Bennet test or such other test as the parties may agree is appropriate.

July 14, 2000

(signed) MICHEL G. PICHER
ARBITRATOR