

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 3134

Heard in Montreal, Wednesday, July 12, 2000

concerning

VIA RAIL CANADA INC.

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Roy Colalillo – 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. Colalillo.

The Corporation denies the Brotherhood's contention.

FOR THE BROTHERHOOD:

FOR THE CORPORATION:

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

(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. Colalillo scored thirty-seven on the Bennet Mechanical Comprehension Test. His own testimony before the Arbitrator confirms that at the time of the test he was suffering a severe bout of bronchitis. He was under a doctor's care and was then taking a number of prescription drugs, including steroids. The grievor relates that the drugs, and shortage of sleep by reason of his bronchitis, had an adverse impact on his ability to take the test when he did.

In the Arbitrator's view the grievor makes a persuasive case for being given a second opportunity to pass a mechanical aptitude test. It should go without saying that a candidate can only be fairly assessed if he or she is physically fit to take the examination at the time it is administered. I am satisfied that that was not the case with Mr. Colalillo. The Arbitrator therefore directs that Mr. Colalillo be afforded a second opportunity to take the Bennet Mechanical Comprehension Test, or such other test as the parties may agree is appropriate.

July 14, 2000

(signed) MICHEL G. PICHER
ARBITRATOR