

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 3135

Heard in Montreal, Wednesday, July 12, 2000

concerning

VIA RAIL CANADA INC.

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Joseph P. Steenson – 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. Steenson.

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. Steenson scored thirty-three, a failing grade on the Bennet Mechanical Comprehension Test. In explanation of that result no real mitigating factors are advanced save Mr. Steenson's own suggestion that he had a "bad day", and should therefore be given another chance.

Regrettably, a tribunal of arbitration must require more than the pleading of a bad day as objective justification for a departure from a process of testing or examination which is agreed by the parties to constitute an appropriate objective means of assessing admission to a locomotive engineer training program. While external factors such as illness or an error on the part of the person administering the test may justify giving a candidate a second chance, mere compassion cannot be justification for such a result in any responsible testing system.

For these reasons Mr. Steenson's grievance must be dismissed.

July 14, 2000

(signed) MICHEL G. PICHER
ARBITRATOR