

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 3268

Heard in Montreal, Thursday, 13 June 2002

concerning

CANADIAN PACIFIC RAILWAY COMPANY

and

**CANADIAN COUNCIL OF RAILWAY OPERATING UNIONS
(UNITED TRANSPORTATION UNION)**

EX PARTE

DISPUTE:

Dismissal from employment of Trainperson J.J. Berthelet effective August 4, 2002.

JOINT STATEMENT OF ISSUE:

In January, 1994, Mr. Berthelet suffered a workplace injury and subsequently was involved in a motor vehicle accident. Mr. Berthelet remained off work. Effective August 4, 2000, the Company terminated Mr. Berthelet's employment without an investigation or employee statement.

The Council contends that the termination of Mr. Berthelet was without just cause and contrary to the collective agreement, including article 32, the *Canada Labour Code* and the *Canadian Human Rights Act*.

The Council requests Mr. Berthelet's reinstatement with full compensation for wages and benefits and no loss of seniority. Alternatively, the Council requests reinstatement on terms the arbitrator considers appropriate.

The Company has declined the Council's request.

FOR THE COUNCIL:

(SGD.) L. O. SCHILLACI
GENERAL CHAIRPERSON

There appeared on behalf of the Company:

K. Fleming	– Counsel, Calgary
C. M. Graham	– Labour Relations Officer, Calgary
D. Guérin	– Labour Relations Officer, Calgary
D. T. Cooke	– Manager, Industrial Relations, Calgary

And on behalf of the Council:

M. Church	– Counsel, Toronto
D. Finnon	– Vice-General Chairperson, Calgary

At the request of the parties the Arbitrator adjourned the hearing sine die.