

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 3288

Heard in Montreal, Thursday, 12 September 2002

concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

and

**UNITED TRANSPORTATION UNION**

**EX PARTE**

**DISPUTE:**

Assessment of thirty (30) demerits and subsequent dismissal for demerits in excess of sixty (60) to D.K. Abernethy of Prince George, BC for conduct unbecoming an employee.

**EX PARTE STATEMENT OF ISSUE:**

Mr. Dan Abernethy was removed from service on March 25, 2002 for failing to report for work properly prepared, the subject of a grievance also before the Arbitrator.

Following his removal from service, Mr. Abernethy encountered Transportation Supervisor John Armstrong in the narrow hallway at the Prince George yard office. The two collided. Following this incident, Mr. Abernethy was required to provide an employee statement. He was assessed 30 demerits for conduct unbecoming an employee, placing him at eighty (80) demerits, resulting in dismissal for demerits in excess of sixty (60).

The Union contends that the discipline assessed to D.K. Abernethy is unwarranted, given the circumstances and in any event excessive. The Union further contends that the dismissal of an employee of some 27 years is certainly not justified. The Union requests that the discipline be expunged or modified as the Arbitrator sees fit and Mr. Abernethy be compensated accordingly.

The Company disagrees.

**FOR THE UNION:**

**(SGD.) B. J. HENRY**  
**GENERAL CHAIRPERSON**

There appeared on behalf of the Company [*among others*]:

S. M. Blackmore – Manager, Human Resources, Edmonton  
D. N. Kruk – Counsel, Edmonton

And on behalf of the Union: [*among others*]

H. F. Caley – Counsel, Toronto  
B. R. Boechler – Vice-General Chairperson, Edmonton  
D. K. Abernethy – Grievor

The matter was resolved between the parties at the hearing, and no award issued.

