

**CANADIAN RAILWAY OFFICE OF ARBITRATION
& DISPUTE RESOLUTION**

CASE NO. 3485

Heard in Montreal, Thursday, 12 May 2005

concerning

CANPAR TRANSPORT LTD.

and

UNITED STEELWORKERS OF AMERICA (LOCAL 1976)

DISPUTE:

Nine (9) demerits plus a three (3) day suspension issued to Ottawa employee Mr. Joe Schock for an alleged motor vehicle accident on October 7, 2004.

JOINT STATEMENT OF ISSUE:

The Union filed a grievance regarding the above mentioned matter on November 19, 2004. The Company denied the grievance on December 1, 2004. The parties have been unable to resolve the dispute to date.

The Union maintains upon reaching 2405Q St. Laurent Boulevard in Ottawa, Ontario, Mr. Schock exited his vehicle to assess a clearance situation before him. Further that after evaluating the situation Mr. Schock believed he had clearance to go forth and then cautiously drove between the parked tractor trailer (to his left) and the parked car (to his right). While driving through the parked vehicles, the Union asserts Mr. Schock's load shifted causing the rear upper left hand section of his vehicle to rest upon the parked trailer.

The Union maintains Mr. Schock contacted the Company immediately. Further, the Terminal Manager came to the scene, he assessed the situation, a plan of action was determined and he instructed Mr. Schock to proceed after that plan was put into motion. The Union contends while proceeding between the parked vehicles, the rear upper left hand clearance light brushed the parked trailer, popping off and breaking.

The Union grieved the discipline received as unjust, extreme and without merit and claimed that the demerit marks be removed from Mr. Schock's record. The Union further claimed to have all salary and benefits lost during the three day suspension is paid.

The Company maintains that the discipline is warranted and declined the grievance.

FOR THE UNION:

(SGD.) D. NEALE
VICE-PRESIDENT, LOCAL 1976

FOR THE COMPANY:

(SGD.) P. D. MACLEOD
VICE-PRESIDENT, OPERATIONS

There appeared on behalf of the Company:

M. Failes	– Counsel, Toronto
P. D. MacLeod	– Vice-President, Operations, Mississauga
B. Neill	– Vice-President, Human Resources, Mississauga
R. Dupuis	– Regional Manager, Quebec & Ottawa
R. Derouchie	– Manager, Ottawa
R. Gaudreault	– Supervisor, Ottawa

And on behalf of the Union:

P. J. Conlon	– Chairman, Board of Trustees, Toronto
N. Lapointe	– President, Local 1976, Montreal
J. Schock	– Grievor

AWARD OF THE ARBITRATOR

On the basis of the material filed the Arbitrator is satisfied that the grievor, Ottawa P&D Driver Joe Schock, did commit an error in judgement with respect to proper clearance while backing his truck during the course of deliveries on October 7, 2004. I am satisfied that the grievor is responsible for the minor damage to the truck which occurred on that occasion.

The only real issue is the appropriate measure of discipline. As the grievor's record stood at fifty demerits at the time the Company assessed nine demerits, a measure which would keep him shy of dismissal. In the Arbitrator's view there is no basis upon which to second guess or substitute any penalty for the nine demerits

assessed, nor is the three day suspension inappropriate, given the unfortunate state of the grievor's prior disciplinary record.

For these reasons the grievance must be dismissed.

May 16, 2005

(signed) MICHEL G. PICHER
ARBITRATOR