

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

CASE NO. 3542

Heard in Montreal, Wednesday, 15 February 2006

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION

EX PARTE

DISPUTE:

Dismissal of Conductor S. Gordon Thomas for conduct unbecoming an employee, fraudulently booking sick and abandoning his assignment.

UNION'S STATEMENT OF ISSUE:

On November 29, 2004 Conductor Thomas was working on the 0700 Bissell Yard assignment. Upon arrival at Bissell, Conductor Thomas discovered that there were no LCS control units at that location. Conductor Thomas contacted Walker Control and requested that an "errand boy" deliver the control units. Conductor Thomas was instructed to get them himself and he assigned the yard helper to do just that.

Supervisor Spaetgens decided to then pick up the helper and the control units and delivered them to Bissell. Supervisor Spaetgens assumed that Conductor Thomas' reference to "errand boy" was somehow directed to him and took issue with Conductor Thomas.

The next day Conductor Thomas was again working at Bissell. The locomotive radio failed and contacted the traffic coordinator by telephone to have the shop staff sent out to fix the radio. The traffic coordinator then contact Conductor Thomas via telephone to advise him that the CTC signal had been set up for him at Union Junction. Conductor Thomas expressed concern with travelling over the main line without a radio in CTC over public crossings and handling dangerous commodities. The traffic coordinator passed the telephone to Supervisor Call, who interrupted Conductor Thomas and told him to go back to work. Conductor Thomas hung up the phone and went back to work.

Later during the shift of November 30, 2004, Supervisor Spaetgens delivered a notice to appear to an investigation regarding the "errand boy" incident of the previous day. Conductor Thomas became quite upset and booked unfit.

Conductor Thomas booked back on in time to protect his assignment the next day, December 1. Conductor Thomas completed his assigned work without incident. He completed his paperwork, faxed it to the TMC. Conductor Thomas then called a taxi to pick him up. The taxi arrived early and Conductor Thomas departed between 1445 and 1450. Supervisor Tassone arrived at 1450 to deliver another notice to appear, this time for

booking unfit the previous shift. On December 2, Conductor Thomas reported for work and was advised that he was removed from service.

Following several reschedulings an employee statement investigating the events of November 29 and 30, and December 1 was held. Following the investigation Conductor Thomas was dismissed.

The Union contends that Conductor Thomas' actions did not constitute conduct unbecoming an employee and that the situation was poorly handled and mismanaged by the Company.

The Union requests that the grievor be reinstated without loss of seniority and made whole for all losses incurred.

FOR THE UTU:

(SGD.) R. A. HACKL
VICE-GENERAL CHAIRPERSON

There appeared on behalf of the Company:

- K. Morris – Manager, Labour Relations, Edmonton
- J. Torchia – Sr. Manager, Labour Relations, Edmonton
- L. Quilichini – Assistant Superintendent, Transportation, Edmonton

And on behalf of the Unions:

- D. Ellickson – Counsel, Toronto
- R. A. Hackl – Vice-General Chairperson, Edmonton
- B. R. Boechler – General Chairman, Edmonton
- G. S. Thomas – Grievor

During the course of the arbitration hearing the matter was resolved between the parties and therefore no award was issued.