

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

**CASE NO. 3591**

Heard in Montreal, Tuesday, 12 December 2006

Concerning

**CANADIAN NATIONAL TRANSPORTATION LIMITED**

and

**NATIONAL AUTOMOBILE, AEROSPACE, TRANSPORTATION AND  
GENERAL WORKERS UNION OF CANADA (CAW-CANADA)**

**DISPUTE:**

Concerning the dismissal of Owner-Operator P. Ruddock

**JOINT STATEMENT OF ISSUE:**

On July 16, 2006, a wheel separated from chassis CNRZ 183016 while being pulled by Owner-Operator Mr. Ron Perry. Mr. Ruddock had hauled the chassis on July 10, 2006. The Company investigated the incident and terminated the grievor as well as seven other owner-operators for allegedly failing to properly complete the pre-trip inspection of the chassis.

It is the Company's position that the owner-operators in question did not complete a thorough pre-trip inspection as required by the standard contract and the Company's operating instructions. The Company argues that given a previous fatal accident involving a CNTL chassis, and its heightened focus on wheel and axle safety in pre-trip inspections, the failure of an owner-operator to properly complete pre-trip inspections is a major violation of the standard contract and justifies termination.

It is the Union's position that the owner-operator did indeed perform a circle check and did not notice any problem with the chassis. Furthermore, even if the Company could show that the owner-operators did not do a proper check, there are a number of mitigating factors involved. First, the chassis was new and there was no reason to believe that it would not contain oil. Second, the chassis had a "green" tag, indicating that it had been inspected by the Company's garage and passed the safety inspection. Third, if the Company was correct that the axle was without oil, the glass cover would be burnt and appear to be full of oil. Finally, the discipline is extreme in the circumstances.

The Union requests that the grievor be reinstated without loss of compensation, benefits and seniority.

**FOR THE UNION:**

**(SGD.) D. OLSHEWSKI**  
NATIONAL REPRESENTATIVE

**FOR THE COMPANY:**

**(SGD.) D. S. FISHER**  
DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Company:

- R. A. Bowden – Manager, Labour Relations, Toronto
- J. Krawec – Manager, Labour Relations, Toronto
- M. Peterson – Manager, Field Operations, Toronto
- C. Parente – Supply Manager Fleet, Montreal

And on behalf of the Union:

- D. Olszewski – National Representative, Winnipeg
- S. Prudames – Regional Representative, Toronto

**AWARD OF THE ARBITRATOR**

The facts in the case at hand are essentially the same as those reviewed in **CROA&DR 3590**. The grievor was disciplined for having failed to properly inspect the hub oil reservoir on the rear axle a chassis which he was involved in hauling, the same chassis which ultimately had a separated wheel by reason of the lack of oil in the axle, while being hauled by Owner-Operator Ron Perry. It appears that the Company has subsequently reinstated Mr. Ruddock into his employment. Given the remedy awarded in CROA&DR 3590, the Arbitrator deems it appropriate to simply record that Mr. Ruddock was liable to some form of discipline, and that this is not an appropriate case for the awarding of compensation. It should be noted, however, that the Arbitrator directs that Mr. Ruddock be restored to his full seniority rights.

December 18, 2006

**(signed) MICHEL G. PICHER**  
ARBITRATOR