

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

CASE NO. 3646

Heard in Montreal, Wednesday 13 February 2008

Concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

UNITED TRANSPORTATION UNION

EX PARTE

DISPUTE:

The suspension, discharge and denial of short term disability benefits to A.D. Montsion of Winnipeg, Manitoba.

UNION'S STATEMENT OF ISSUE:

On May 18, 2005, the grievor, A.D. Montsion, was working as assistant yard conductor on the 15:00 Local Tower belt pack assignment. During this tour of duty Assistant Superintendent Jamie Boychuk engaged in a discussion with the grievor. This discussion took about eight minutes. Following the discussion the grievor determined that he was no longer fit to perform duty and contacted the Crew Management Centre to advise them accordingly.

Following an investigation the grievor was assessed a twenty-one (21) day suspension for allegedly abandoning his assignment. The grievor, as the company was fully aware, was unfit for duty and under a doctor's supervision prior to the investigation for the period of the suspension and after the suspension was complete.

The grievor submitted a claim for short term disability (STD) benefits which were originally declined but then allowed, in part, excluding the period of suspension. STD benefits were then discontinued twelve days after the suspension ended even though the grievor was still under a physician's care and unfit for work.

The grievor received further notice that his file would be closed unless he could provide information "justifying his absence". The grievor's doctor forwarded the information to the Company. Despite this the grievor's file was closed on August 22, 2005.

The Union submits that the Company improperly assessed discipline to the grievor, improperly denied and interfered with his STD benefits, improperly closed his file and failed to reasonably accommodate the grievor's medical condition which was known to the Company at all material times.

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

The Company has not responded to this grievance.

FOR THE UNION:

(SGD.) R. S. THOMPSON

GENERAL CHAIRPERSON

There appeared on behalf of the Company:

K. Morris – Manager, Labour Relations, Edmonton
B. Laidlaw – Manager, Labour Relations, Winnipeg

And on behalf of the Union:

D. Ellickson – Counsel, Toronto
R. S. Thompson – General Chairman
R. A. Hackl – Witness

On Thursday 13 March 2008, there appeared on behalf of the Company:

K. Morris – Manager, Labour Relations, Edmonton
B. Laidlaw – Manager, Labour Relations, Winnipeg

And on behalf of the Union:

D. Ellickson – Counsel, Toronto
R. S. Thompson – General Chairman
R. A. Hackl – Witness

The grievance was resolved between the parties and no award will be issued.