

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

**CASE NO. 3648**

Heard in Calgary, Tuesday, March 11, 2008

Concerning

**CANADIAN PACIFIC RAILWAY**

And

**TEAMSTERS CANADA RAIL CONFERENCE**

**DISPUTE:**

Appeal of the Caution assigned to [Employee X] in connection with a derailment that occurred on January 9, 2005.

**JOINT STATEMENT OF ISSUE:**

On January 9, 2005, [Employee X] was backing up a locomotive as directed by his Conductor, who had detrained and was giving instructions protecting the reverse movement as required by rule. In the course of following the Conductor's instructions, the movement inadvertently backed over a derail located in the middle of the track.

The Union contends that evidence provided by [Employee X] in his investigation accounted for the ordinary causes of the minor incident. At the time in question, [Employee X] was acting on the information given to him by his Conductor, who was protecting the leading end of the movement. The Union contends that, in the circumstances, [Employee X] is not responsible for the derailment. [Employee X] acted to ensure his movement was safe and properly protected by the CROR rules. The Union contends that the lack of injury or significant damage to Company property underscore the minor nature of this incident, and mitigate the degree of discipline warranted in the circumstances.

The Union requests that the discipline assessed to [Employee X] be removed in its entirety or in the alternative be substituted for such lesser penalty as the Arbitrator sees fit.

The Company denies the Union's request.

**FOR THE UNION:**  
**(SGD.) D. R. ABLE**  
**GENERAL CHAIRMAN**

**FOR THE COMPANY**  
**(SGD.) C. AYOT**  
**FOR: ASSISTANT VICE-PRESIDENT, OPERATIONS WEST**

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

C. Ayton	– Labour Relations Officer, Calgary
R. Wilson	– Assistant Vice-President, Industrial Relations, Calgary
R. Hampel	– Counsel

And on behalf of the Union [among others] :

M. Church	– Counsel, Toronto
D. Able	– General Chairman, Calgary
Employee X	– Grievor

At the request of the parties the hearing was adjourned. By letter dated 30 September 2008, the parties advised the Office that the matter had been resolved.