

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

CASE NO. 3652

Heard in Calgary, Tuesday, March 11, 2008

Concerning

CANADIAN PACIFIC RAILWAY

And

TEAMSTERS CANADA RAIL CONFERENCE

EX PARTE

DISPUTE:

Appeal of the dismissal of [Employee X].

UNION'S STATEMENT OF ISSUE:

On May 23, 2006 [Employee X]'s employment was terminated by the Company for the accumulation of demerits.

The Union contends that the events leading to the dismissal for accumulation of demerits were non-culpable and entirely attributable to [Employee X]'s health condition. The Company was aware of his health condition at all relevant times.

The Union contends that the Company's disciplinary response to [Employee X]'s health-related absences breaches the collective agreement, the *Canadian Human Rights Act* (including its duty to accommodate) and the Company's Attendance Management Policy.

The Union contends that the dismissal of [Employee X] is unjustified, unwarranted and excessive and requests that [Employee X] be reinstated without loss of seniority and benefits, and that he be made whole for all lost earnings, with interest. In the alternative, the Union requests that the penalty be mitigated as the Arbitrator sees fit.

The Company disagrees and denies the Union's request.

FOR THE UNION:

(SGD.) D. R. ABLE
GENERAL CHAIRMAN

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.