

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

**CASE NO. 3707**

Heard in Calgary, Tuesday, 11 November 2008

concerning

**CANADIAN NATIONAL RAILWAY COMPANY**

and

**TEAMSTERS CANADA RAIL CONFERENCE**

**EX PARTE**

**DISPUTE:**

The dismissal of Conductor D.P. Knorr, December 21, 2007.

**COMPANY'S STATEMENT OF ISSUE:**

On August 15, 2006 Mr. Knorr signed a personal commitment with the Company's Occupational Health Services department. On March 29, 2007 Occupational Health Services reported Mr. Knorr as being in violation of his personal commitment contract. Following a formal investigation, Mr. Knorr, the Union and the Company signed a continuing employment contract, commonly referred to as a "last chance contract" on May 24, 2007.

The contract included random testing for drugs and alcohol.

On September 21, 2007, Mr. Knorr provided a urine sample that was deemed to be inconsistent with normal urine. Mr. Knorr was offered the opportunity to have the original sample re-tested, which is referred to as a split sample tested to confirm results of testing. Mr. Knorr refused the offer to perform a split test.

The results of the testing were reported to Mr. Knorr's supervisor who in turn initiated a formal investigation into the matter. Following the investigation the grievor was discharged for "failure to comply with terms of your continuing employment contract dated May 24th, 2007."

The Union contends the Company violated the grievor's rights laid out in article 117.3 of agreement 4.3; the grievor did not violate his continuing employment contract; and the drug test results did not indicate impairment.

The Union requested the grievor be reinstated and his record made whole. The Company disagreed with the Union's contentions and denied the request.

**FOR THE COMPANY:**

**(SGD.) K. MORRIS**

**FOR: VICE-PRESIDENT, LABOUR RELATIONS**

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

D. Crossan	– Manager, Labour Relations, Prince George
J. Cavé	– Counsel, Montreal
J. Orr	– General Manager, Prairie Subdivision

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

M. Church	– Counsel, Toronto
B. R. Boechler	– General Chairman, Edmonton
D. Knorr	– Grievor

**AWARD OF THE ARBITRATOR**

At the hearing the issue was resolved between the parties. The settlement agreement signed by the Company, Union and grievor included the following:

Re: CROA 3707 Mediated Settlement with Arbitrator John Moreau

This letter confirms the terms of settlement agreed to among the parties in the matter of the grievance hearing of Mr. Davin Knorr.

The parties agree to the following terms and conditions:

...

9. The hearing is adjourned *sine die* and the Arbitrator remains seized of the grievance and implementation of this agreement.

November 12, 2008

**(signed) JOHN M. MOREAU, Q.C.**  
**ARBITRATOR**