

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

CASE NO. 3783

Heard in Edmonton, Thursday, 11 June 2009

concerning

CANADIAN NATIONAL RAILWAY COMPANY

and

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

DISPUTE:

Concerning the assessment of 15 demerits to the record of Heavy Equipment Operator K. Bonnett, for "failure to wear CSA safety glasses during your shift on August 20, 2008."

JOINT STATEMENT OF ISSUE:

On August 20th, 2008 the grievor was called off his machine by Supervisors Dickson and Villella. When the grievor approached the supervisors' vehicle the supervisors noted that he was not wearing his safety glasses. He was called for an investigative statement on September 9th, 2008 and assessed with 15 demerits. He was subsequently dismissed for accumulation of demerits.

On the date in question the grievor was required to change machines and had left his safety glasses in his previous equipment. It is the Union's position that the grievor had another investigation pending. He was nervous at being called off the machine and inadvertently forgot to put his safety glasses on. The Union considers the discipline to be excessive in the circumstances and not worthy of dismissal. The Union also alleges that the grievor's long service, his utilization of the Company's EFAP program to cope with stress and his forthrightness during the investigation must mitigate against the severity of the discipline imposed.

The Union requests the grievor be reinstated forthwith with full compensation for all lost wages and benefits.

The Company denies the grievance and the Union's allegations.

FOR THE UNION:

(SGD.) D. OLSHEWSKI
NATIONAL REPRESENTATIVE

FOR THE COMPANY:

(SGD.) B. LAIDLAW
MANAGER, LABOUR RELATIONS

There appeared on behalf of the Company:

B. Laidlaw – Manager, Labour Relations, Winnipeg
R. Hargreaves – Supervisor, Vancouver

And on behalf of the Union:

B. Kennedy – Staff Representative, Edmonton
R. Shore – Representative, Vancouver
K. Bonnett – Grievor

AWARD OF THE ARBITRATOR

The grievor readily admitted at his investigation that he simply forgot to wear his safety glasses when he was asked to change machines during the course of his shift. This was more of an act of forgetfulness on his part rather than a deliberate attempt to defy authority.

However, given that the grievor's record now stands at seventy demerits as a result of the decision in **CROA&DR 3782**, any reduction in the severity of the discipline imposed is moot and the grievance is dismissed.

June 25, 2009

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